88-1978

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1988

No. _____

DONALD E. TYLER, M.D.

Petitioner

v.

HARTFORD INSURANCE GROUP, YTURRI, ROSE, BURNHAM, EBERT & BENTZ, ANTHONY YTURRI, CARL BURNHAM, JR., CLIFF S. BENTZ, TERESA J. HUTCHENS, DEBBIE FREEPONS CRAIG, FREDERIC P. ROEHR, KENNETH E, ROBERTS, JAMES C. CARTER, THOMAS L. ROBERTS, EDWIN G. RULAND, DONALD P. SMITH, JR., HOLMES, DeFRANCQ & SCHULTE, P.C., KENNETH E. ROBERTS, P.C., SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, VERGEER, ROEHR & SWEEK, X INSURANCE COMPANY, a fictitious name, XX INSURANCE COMPANY, a fictitious name, Y INSURANCE COMPANY, a fictitious name, YY INSURANCE COMPANY, a fictitious name, Z INSURANCE COMPANY, a fictitious name, and ZZ INSURANCE COMPANY, a fictitious name,

PETITION FOR WRIT OF CERTIORARI TO
THE COURT OF APPEALS OF THE STATE OF OREGON
AND **PART I** OF APPENDIX A

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QUESTIONS PRESENTED

1. Was the petitioner denied the right of an impartial judge and by secret conferences with the defendants to his prejudice in violation of the 14th Amendment of the U.S. Constitution?

2. Was the petitioner denied his right to trial in violation of the 14th Amendment of the U.S. Constitution?

3. Inasmuch as the conspiracy to obstruct justice and by fraudulent use of legal proceedings and racketeering subject of the complaint included as coconspirators the Attorney General of the State of Oregon, the U.S. Attorney for the District of Oregon, judges of the States of Oregon and Colorado, judges of the United States, insurance companies, and lawyers, was the petitioner denied his right to public jury trial of issues of public political concern in violation of the First

Amendment of the U.S. Constitution?

4. Was the award of costs, disbursements and prevailing party fees to the defendants a taking of the property of the petitioner without due process of law in violation of the 14th Amendment of the U.S. Constitution?

5. Was the award of attorney fees to the defendants a taking of the property of the petitioner without due process of law in violation of the 1st and 14th Amendments of the U.S. Constitution?

6. Do the following Oregon Rules of Civil Procedure (ORCP), Oregon Rules of Appellate Procedure (ORAP), and Oregon statutes violate the 14th Amendment of the U.S. Constitution: ORCP 17, 21, 68, ORAP 11.10, ORS 14.260, 20.105, 20.190?

28 USC s.2403(b) may be applicable and copy of this petition has been mailed to the Attorney General of Oregon.

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PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF OREGON

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Donald E. Tyler, M.D., petitioner herein, petitions that a writ of certiorari issue to review the judgment of the Court of Appeals of the State of Oregon entered in the above entitled case on October 5, 1988.

OPINIONS BELOW

Decisions, opinions, and judgments are in Appendix A, infra: TRIAL COURT order dismissing, p. A-1; judgment of dismissal (and award of costs), p. A-8; orders and judgments awarding attorney fees, pp. A-10 - A-20; COURT OF APPEALS order affirming trial court, A-20; order denying reconsideration, A-23; award of appeal attorney fees, A-24; SUPREME COURT

order denying review, A-26; order denying reconsideration A-32.

JURISDICTION OF THIS COURT

Jurisdiction is based upon the 1st and 14th Amendments of the U.S. Constitution and 28 USC s. 1257. This petition is timely filed in conformity with 28 U.S.C. s.2101(c) and Supreme Court Rule 20(.2,.4). The judgment of the Oregon Court of Appeals for which review is sought was issued October 5, 1988. Review of that decision was denied by the Oregon Supreme Court on January 18, 1989. Order Denying Reconsideration was issued by the Oregon Supreme Court April 4, 1989.

CONSTITUTIONS, STATUTES, RULES

The following are pertinent to this case as set forth in the appendix: The First and Fourteenth Amendments of the U.S. Constitution; Federal statutes 28 USC ss. 1446,1447; Oregon Revised Statutes ORS 9.460, 14.260, 20.105, 20.190,

161.450,162.065, 162.085, 162.235, 162.305, 166.715, 166.720, 166.725; Oregon Rules of Civil Procedure (ORCP) Rules 7, 17, 19, 21, 23, 54, 68, 69; Oregon Rules of Appellate Procedure (ORAP) 11.10.

FACTS OF THE CASE

After documented secret conferences with the defendants, the Hon. William Jackson, Oregon judge, dismissed the case under color of Rule 21A, ORCP, for failure to state a claim. Copy of the complaint is in Appendix A, p. A-33. **In applying Rule 21A, ORCP, the facts as alleged in the complaint and inferences therefrom must be accepted as true and admitted.** Musgrave v. Lucas, 193 Or 401, 238 P2d 780 (1951); Paddack v. McDonald, 294 Or 667, 661 P2d 545 (1983). None of the allegations have been refuted. This case is for damages proximately resulting from **criminal conspiracy to obstruct justice** including by fraudulent use of legal

proceedings, racketeering, wrongful and criminal acts by attorneys, state and federal judges, a federal court reporter and clerk, and insurance companies, and including by outrageous conduct designed to cause severe emotional distress. Defendants are insurance companies and lawyers. Facts alleged in the complaint infer an out-of-court conspiracy. e.g. paragraphs 36,37. Allegations in the unanswered complaint include more than 30 criminal acts and more than 90 fraudulent acts committed by defendants and their coconspirators pursuant to a continuing conspiracy to obstruct justice. Acts include conspiracy to commit perjury and perjury in the federal court by defendant-lawyer Craig. This instant case was dismissed under color of failure to state a claim by bar of res judicata and collateral estoppel. The prior case upon which the fraudulent ruling of res

judicata and collateral estoppel is based is the suit of **EXHIBIT A of the complaint.** (p. A-214) Defendants rely upon dismissal of that case which was subject of fraudulent removal from a state court to the federal court with its dismissal being the result of conspiracy between the defendants, the federal judge, and a state judge. That fraudulent removal and fraudulent dismissal are subjects of this instant lawsuit for damages resulting from conspiracy to obstruct justice and by fraudulent use of legal proceedings and racketeering. The dismissal of this case is in conflict with Dennis v. Sparks, 449 US 24, 101 SCt 183, 66 LEd2d 185 (1980), which allowed suit against coconspirators of judges. Dennis v. Sparks has no meaning if the lawsuit in which obstruction of justice pursuant to conspiracy occurred acts as res judicata and collateral estoppel as to suit for

damages resulting from the conspiracy. In addition to wrongful dismissal of the case, illegal awards of costs and disbursements in amounts exceeding $35,000 should be reviewed herein. Other than in the complaint, the record of the prior action is not in evidence as required in other cases for denial of trial based upon res judicata and collateral estoppel. Laughlin v. Hughes, 161 Or 295, 89 P2d 568 (1930); Johnston v. Ota, 43 Cal App2d 94, 110 P2d 507 (1941). The dismissal of the case under color of bar by res judicata and collateral estoppel violates all pertinent pronouncements of this and other courts and the common law. The essence of the doctrines of res judicata and collateral estoppel is that once an issue has been fairly and fully litigated against a specific party that the matter is closed and trial again is not allowed. Denial of trial by applying the doctrines

of res judicata and collateral estoppel requires positive proof with strict certainty of **prior fair and full litigation of the precise issues of both cases in a court having jurisdiction.** Russell v. Place, 94 US 606, 24 LEd 14 (1877); County of Mobile v. Kimball, 102 US 691,705, 26 LEd 238,242 (1880); Ropacki v. Ropacki, 354 Ill 502, 188 NE 400 (1933); Johnston v. Ota, supra. "(I)f upon the face of the record anything is left to conjecture as to what was necessarily involved there is no estoppel ***" Russell v. Place at 94 US 610. Causes of action must be the same. Jones v. Flannigan, 270 Or 143, 526 P2d 543 (1974). The precise issues include the requirement that the parties are the same or have specifically defined relationships, not applicable here, in both suits. Pomeroy v. Waitkus, 183 Colo 344, 517 P2d 396 (1973); Southwest

Airlines Co. v. Texas Intern. Airlines, 546 F2d 84 (5th Cir, 1977). Even if the federal court had jurisdiction, which it plainly did not on the face of the record, the holding of bar by res judicata and collateral estoppel was completely fraudulent. On the face of the complaints the parties are different, combinations of parties are different, causes of action are different, and issues are different. Allegations accepted as true are that prior litigation was without jurisdiction and subject of fraud and conspiracy. It is obvious that the prior case did not deal with the damages caused by acts committed pursuant to the conspiracy between defendants herein and the Hon. James Redden of the U.S. District Court, the federal court clerk, the federal court reporter, and with the Hon. F.J. Yraguen, Oregon judge, all subject of the complaint. It is obvious that the prior

case did not deal with the liability of these defendants for damages for injuries they intentionally inflicted and for which they are liable because of joining a continuing conspiracy. Judge Redden, (Complaint, paragraph 53 and EXHIBIT L), fraudulently dismissed for the following given reasons: Hartford, T. Roberts, Smith, Kelly, Ruland, Roan, Bockman, Foote, and Vollack for lack of personal jurisdiction; Kostol, Ferrin, Reid, and Bobbit by statutes of limitation; Johnson, Danford, Silverstein, Steinberg, Tursi, Van Cise, Jacobucci, and Ericksen were not served summonses or pleadings; Craig "based upon judicial immunity and plaintiff's failure to provide notice and file within the applicable statute of limitations;" and judicial immunity of Finesilver, Seth, McKay, and Logan. It is obvious that those dismissals determined no issues of this lawsuit.

The dismissal of this instant case is in conflict with pronouncements of this Court that bar of trial by applying doctrines of res judicata or collateral estoppel requires a valid prior judgment by a court having jurisdiction, and that such denial of trial requires that there is no allegation of fraud as to the prior case. Russell v. Place, supra; Rich v. Mentz Township, 134 US 632, 10 SCt 610, 33 LEd 1074 (1890); Baldwin v. Traveling Men's Assn., 283 US 522, 51 SCt 517, 75 LEd 1244 (1931); Durfee v. Duke, 375 US 106, 11 LEd2d 186, 84 SCt 242 (1963).

The Oregon Court of Appeals affirmed the judgments of the trial court of dismissal with prejudice and awards of costs, disbursements and attorney fees without opinion, and denied reconsideration. The Oregon Supreme Court denied review and denied reconsideration.

Admissions by conduct of the defendants

of liability and lack of defense of the prior case include their unrefuted criminal and fraudulent acts committed pursuant to the continuing conspiracy to obstruct justice as alleged in the complaint. 31 CJS s.293, p. 750; 29 Am Jur2d Evidence, s 276, p.326. Their secret conferences with Judge Jackson are admissions they have no legitimate defense. Acts committed after the time of allegations of the complaint are also evidence of the conspiracy. Barber v. Stephenson, 260 Ala 151, 69 So2d 251 (1953); 15A CJS s.29, p.695. Admitting there is no legitimate defense in this case, defendant-Oregon-lawyers sought injunction in the U.S. District Court for the State of Oregon to stop review of this case in the Oregon Court of Appeals and Oregon Supreme Court. The plaintiffs in that case for injunction are defendants Yturri, Bentz, Hutchens, Burnham, Jr.,

Craig, Roehr, K.Roberts, Carter, Schwabe, Williamson, Wyatt, Moore & Roberts, Vergeer, Roehr & Sweek, Holmes, DeFrancq & Schulte, P.C., and Yturri, Rose, Burnham, Ebert & Bentz. That injunction to stop review of the case was sought after the defendants through secret conferences with the State judge obtained the fraudulent illegal dismissal of the suit and the illegal award of more than $20,000.00 under guise of attorney fees and costs. Trial for injunction was held fraudulently in the federal court without subject matter jurisdiction and without jurisdiction of the judge assigned the case by Judge Redden. The fraudulent trial was held prior to the filing of an answer, a trial before the case was at issue, in violation of federal rules of procedure and an illegal abuse of discretion by standards of other courts. In that fraudulent trial, defendant herein

Carl Burnham, Jr., an attorney in the Yturri firm which represents Hartford, acting as a party, made multiple false statements of material facts as a sworn witness. As to "the action before Judge Redden," he knowingly falsely stated under oath, "We then filed motions to dismiss in the State Court on the grounds of collateral estoppel." To the contrary, no claim of bar by collateral estoppel was raised by any defendant in that case in either the state or federal court before or after the fraudulent removal. The falsity is a matter of record of the prior case upon which the claim of res judicata and collateral estoppel herein is based. It is clear that Burnham knew his testimony was false as such a claim would have been inconsistent with Hartford's claim of lack of personal jurisdiction. Claim of bar by res judicata is an affirmative defense provided by Rule 19,

ORCP, and such claim would have constituted a general appearance. The inference is clear that all plaintiffs (defendants herein) and their lawyers, who apparently were employed by the Oregon Bar Association, conspired to commit that perjury. Being informed of perjury and apparent conspiracy to commit perjury by plaintiffs in that case and their lawyers, which was not refuted, The Hon. Owen Panner of the U.S. District Court for the District of Oregon acting pursuant to the continuing conspiracy to obstruct justice subject of this lawsuit, in violation of 28 USC 2283, issued an injunction knowingly based upon perjury and awarded defendants herein (plaintiffs in that case) attorney fees under color of Rule 11, FRCP. The case violated all precedence as to equity jurisdiction neither alleging or showing threat of irreparable injury or inadequate legal

remedy. That case is based upon the fraudulent claim that trial of this instant case and any other lawsuits by the petitioner against any conspirators are barred in advance by res judicata and collateral estoppel by the case of EXHIBIT A of the complaint and all cases mentioned therein. That case is subject of pending appeal in the 9th Circuit Court of Appeals. (Anthony Yturri, et al. v. Tyler, No. 88-4118 and 88-4184).

Denial of right to impartial judge

Right to an impartial judge is guaranteed by the due process clause of the 14th Amendment. In re Murchison, 349 US 133, 75 SCt 623, 75 LEd2d 942 (1955). Judge Yraguen, a named coconspirator of the defendants, apparently shopping for a judge favorable to the defendants and him, communicated with various judges with the inference that they included Judge Jackson before the latter was assigned the case by

the Chief Justice of the Oregon Supreme Court. Acting without jurisdiction, Judge Yraguen had previously assigned the case to the Hon. R.T. Gooding. **By their bills for attorney fees, the defendants admitted secret, ex parte, out-of-court conferences with the judges,** including several conferences with Judge Jackson at times critical in the case. The Yturri firm, representing themselves and Hartford, billed for secret ex parte conferences with Judges Yraguen, Gooding, and Jackson on 6/18/87, 6/22/87, 6/26/87, 7/15/87, 8/13/87, 8/19/87, 8/31/87. Mr. Foley, Jr., representing lawyers Robertses and the Schwabe firm, billed for a secret ex parte conference with the Court on 8/10/87. Other attorneys did not itemize their bills, which it must be presumed included conspiratorial conferences with each other concerning those ex parte conferences and for other direct secret

conferences with the judges. The inference is clear that defendants conspired secretly with Judge Redden as alleged in the complaint. Motion to disqualify Judge Jackson was submitted as soon as his prejudice became known to the petitioner. It is submitted that ORS 14.260 violates the 14th Amendment by not allowing disqualification of a judge with the time related to time of discovery of prejudice, and in not allowing the challenge of more than two judges, particularly in this case when one was a named coconspirator and another was assigned by that named coconspirator. Judge Jackson decided the motion to disqualify himself, judging his own case, in violation of prior rulings of the Oregon Supreme Court and of this Court. State v. Weiss, 250 Or 252, 430 P2d 357 (1967); In re Murchison, supra. Denial of an impartial judge by out-of-court

conspiracy between Judge Jackson and defendants resulted in wrongful and erroneous predecisions of motions to dismiss, to award defendants attorney fees, and to award costs and disbursements. In order to cause needless delay and added expense to the petitioner, determinations of awards of attorney fees were spaced so that the petitioner was required to file multiple notices of appeal and 6 briefs in the Oregon Court of Appeals. The petitioner was damaged by the denial of right to an impartial judge and through conspiracy with defendants in violation of the 14th Amendment. It was a flagrant violation of a fundamental principle of justice. The public would be outraged if they knew that when an insured is sued that lawyers for insurance companies and judges are allowed to secretly confer.

Illegal denial of right of trial

The right of trial is protected by the 14th Amendment. Angle v. Chicago, St. Paul, Minneapolis & Omaha Ry. Co., 151 US 1,19, 38 LEd 55, 64-65 (1893). The dismissal of this case is a denial of the petitioner's right of trial in violation of the due process clause of the 14th Amendment. Dismissal of this case is in conflict with Rich v. Mentz Township, supra, in which this Supreme Court held that bar of an action by res judicata and collateral estoppel requires a prior valid judgment. The complaint clearly alleges that there was no valid judgment in the case relied upon for such bar, which must be accepted as true for Rule 21A dismissal. The prior case upon which denial of right to trial of this action is based was subject of outrageously grossly fraudulent, legally ineffective removal from a state court to the federal court

which lacked jurisdiction. There was no compliance with any of the jurisdictional requirements to remove a case from state to federal court as required by 28 USC 1446. The case was not removed by a defendant, a jurisdictional requirement not subject of waiver. Ayers v. Watson, 113 US 594, 5 SCt 641, 28 LEd 1093 (1885); 28 USC 1446. No verified petition for removal was filed, no bond was filed, and no defendant filed a copy of a verified petition for removal in the state court. None of those requirements were waived. There was plainly no legal removal. It is clearly established that the procedure for removal of 28 USC 1446 including a petition verified and filed by a defendant must be followed by a federal officer claiming right to removal under 28 USC 1442. Maryland v. Soper (No. 1), 270 US 9, 46 SCt 185, 70 LEd 449 (1926); Michigan v. Banning, 88 F Supp 449 (Mich, 1950);

Brenner v. Kelly, 201 F Supp 871 (Minn, 1962); Hollingsworth v. City of Pueblo, 494 F Supp 1039 (Colo, 1980). Judge Redden claimed jurisdiction based upon a fraudulent finding that the case was removed "on behalf of a federal judge who had been served, defendant Finesilver, ***." (p. A-292) "Where the facts on which a court assumes jurisdiction are recited in the record, and appear by it to have been such as would not in law confer jurisdiction, the judgment may be impeached collaterally." 49 CJS p.848. Clearly, only a defendant can remove a case, and there is no provision in the statutes or precedence that allows anyone to remove a case "on behalf of" a defendant. Furthermore, there is nothing in the record to show authorization by defendant Finesilver for the removal. Regardless of fraudulent manipulations of who did the removal, the fact remains on

the record that no one filed a **verified** petition, and not being waived, that is a jurisdictional requirement. Ayers v. Watson, supra.

Judge Redden knew that without service upon Finesilver that he lacked subject matter jurisdiction, so he fraudulently found that he was served. IMFC Professional, Etc. v. Latin Am. Home Health, 676 F2d 152, footnote 4, p.156 (5th Cir, 1982); Housing Authority v. Millwood, 472 F2d 268,270 (5th Cir, 1973); Martinez v. Seaton, 285 F2d 587 (10th Cir, 1961). Judge Redden had no evidence that Finesilver was served. The return summons in the state court, not removed to the federal court, proves that in fact attempted service of Finesilver was made by leaving the complaint with the Clerk of the U.S. District Court in Colorado, which is not in accord with service provided by Oregon Rules of Civil

Procedure, ORCP 7D. "We have held, where the judgment recites generally due and legal service without setting out the mode, and the return shows the mode of service, which is bad, that the record stultifies itself, and the judgment is void on collateral attack." Munson v. Pawnee Cattle Co., 53 Colo 337, 126 P 275 (1912). The fraudulent finding of service of Finesilver is in conflict with the holding of this Court that strict and literal compliance with statutes is required for service of a nonresident. Galpin v. Page, 18 Wall 350, 369, 21 LEd 959 (1873). Furthermore, "the burden of establishing jurisdiction is cast upon the party who invokes the benefit or protection of the judgment or decree." Galpin v. Page, supra at p. 368. The defendants clearly did not meet their burden of establishing jurisdiction of Finesilver and of the consequent subject

matter jurisdiction of the federal court.

Judge Redden still had the problem that when parties admit facts which show a judgment is void for various reasons including by lack of service of a summons, it is the same as if the judgment is void on its face. Taylor v. Lauridsen, 161 Cal 120, 118 P 535 (1911); In re Ivory's Estate, 37 Cal App2d 22, 98 P2d 761 (1940); Boulter v. Cook, 32 Wyo 461, 234 P 1101 (1925); Welch v. Morris, 49 Id 781, 291 P 1048 (1930). The petitioner maintained in his motion to remand that Finesilver was not served. The removal statute 28 USC 1446(a) requires that with the petition the removing party "shall file *** a copy of all process, pleadings, and orders served upon him ***." On the face of the record and the face of the "petition," no summons served upon Finesilver was filed. That is an admission that no summons was served. In

the so-called "petition," the U.S. Attorney stated, "Defendants have not been served *** and *** do not waive any jurisdictional defects ***." As alleged in paragraph 53 (e) and (e)(1) of the complaint, Judge Redden caused a hearing transcript to be falsified to prevent further admission on the record that Finesilver had not been served. With both sides admitting that no federal officer was served, there was no subject matter jurisdiction in the federal court. IMFC Professional, Etc., supra.

Also, the filing of a complaint in a court is what gives a court subject matter jurisdiction. Without the complaint any claimed adjudication is without jurisdiction, is void and a nullity. 21 CJS s 33; Hart v. Hunter, 114 SW 882 (Tex Civ App, 1908): Roth v. Roth, 1 NE2d 724 (Ill App, 1936). The prior case subject of claimed res judicata was

properly commenced in a state court. The federal court had no original or certified copy of either the complaint or the amended complaint. Motions to dismiss were fraudulently directed to the null and void complaint which had been properly replaced by an amended complaint. The facts alleged clearly infer fraud by defendants herein in that lawsuit going to the jurisdiction and to the judgment.

For a court to have jurisdiction it must have both subject matter and personal jurisdiction of parties. Rankin v. Howard, 633 F2d 844 (9th Cir, 1980). Pleadings are what give a court personal jurisdiction of the plaintiff. 21 CJS s 83; Vincent v. McElvain, 304 Ill 160, 136 NE 502 (1922). The plaintiff sought no remedy in the federal court in that prior case. The federal court clearly lacked personal jurisdiction of the plaintiff. The dismissal with prejudice as to

Hartford, Thomas L. Roberts, Ruland, Smith, Kelly, Roan, Bockman, Foote, and Vollack is indisputably plainly fraudulent because by his own rulings Judge Redden lacked personal jurisdiction. Rankin v. Howard, supra. Bar by res judicata and collateral estoppel as to those defendants correspondingly is clearly fraudulent. Pursuant to out-of-court conspiracy, clearly inferred by those and other facts alleged and inferred, Judge Redden, U.S. District Court judge, dismissed the prior lawsuit with prejudice as to all defendants including those as to whom he found personal jurisdiction was lacking, including Hartford, and as to other defendants after having found they had not been served. "Any judgment procured without the service of process is a fraud *** subject to attack either collateral or direct, regardless of the name the remedy may bear." Oklahoma Stockyards Nat. Bank

v. Pierce, 114 Ok 24, 243 P 144,145 (1925). Any judgment is void if without either subject matter or personal jurisdiction. Warmsprings Irr. Dist. v. May, 117 F2d 802 (9th Cir, 1941); Rankin v. Howard, supra.

With lack of jurisdiction in the federal court being obvious and on the face of the record, and with fraud on the face of the record going to jurisdiction, with lack of jurisdiction not being subject of waiver, and conspiracy apparent, the plaintiff had no duty to pursue claims in the federal court. As alleged in paragraphs 65 and 66 of the complaint, the plaintiff was subject of threats of award of outrageous amounts of money to the defendants under guise as attorney fees if he acted in the federal court including appeal, full justice could not have been obtained by appeal, and justice would have been further delayed in fulfillment of the

conspiracy to obstruct justice.

The dismissal of this case is in conflict with the **common law right** to sue for damages caused by criminal acts. 15A CJS p.610; Kellogg v. Sowerby, 190 NY 370, 83 NE 47 (1907); Garsed v. Sugarman, 99 Fla 191, 126 So 157 (1930). The dismissal of this case is in conflict with **common law** which provides that persons may be sued for damages resulting from fraudulent use of legal proceedings pursuant to conspiracy. Verplanck v. Van Buren, 76 NY 247 (1879); Aker v. Sears Roebuck & Co., 38 F Supp 741 (DC,Id,1941); Dixon v. Bowen, 85 Colo 194, 274 P 824 (1929); Clark v. Lesher, 235 P2d 71 (Cal App, 1951); Frist v. Gallant, 240 F Supp 827 (WD,SC, 1965); Morgan v. Graham, 228 F2d 625 (10th Cir, 1956). The dismissal of this case is in conflict with prior holdings of the Oregon Supreme Court as to suit for damages caused by intentional,

malicious conduct of lawyers prohibited by ORS 9.460. O'Toole v. Franklin, 279 Or 513, 569 P2d 561 (1977); Bob Godfrey Pontiac, Inc. v. Roloff, 291 Or 318, 630 P2d 840 (1981); ORS 9.460, 166.725. The complaint clearly states a cause of action provided by ORS 166.725. The anti-racketeering statutes do not immunize lawyers and insurance companies.

Acting without subject matter jurisdiction of appropriateness of documents filed in the state court, pursuant to out-of-court conspiracy as alleged in the complaint, Judge Redden awarded Hartford $4,976.41 as costs and attorney fees under fraudulent color of Rule 11, FRCP, for time required of its lawyers by the complaint and amended complaint properly filed in the state court and for the properly submitted motion to remand. See Kendrick v. Zanides, 609 F Supp 1162 (DC,ND,Cal,

1985). In their detailed billing, less than one-half hour was claimed by the Yturri firm for the motion to remand.

FEDERAL ISSUES RAISED IN STATE COURTS

The complaint clearly raised federal issues in the trial court, the Oregon Court of Appeals, and the Oregon Supreme Court. Violation of the First, 5th, 7th and 14th Amendments were alleged in paragraph 40 of the complaint. By incorporating damages alleged in EXHIBIT A of the complaint, damages are claimed in the case as provided by 42 USC s.1983, for depriving the petitioner rights secured by the U.S. Constitution. Dismissal of this case under color of failure to state a claim denied those claims. Denial of right of trial of this instant case was claimed to be in violation of the 14th Amendment and submitted in the trial court at the first opportunity after the threat was learned in the plaintiff-petitioner's

"Memorandum in response to preliminary Motions of defendants," submitted July 23, 1987, prior to dismissal of the case on July 30, 1987, and which became a part of the record on appeal. Denial of right of trial in violation of the 14th Amendment was claimed in the trial court in petitioner's "Objection to proposed judgment" filed August 10, 1987. The claim that the denial of right to trial violated the petitioner's 1st and 14th Amendment rights was submitted to the Oregon Court of Appeals in his "Objections to any awards of attorney fees," and in "PETITION FOR REVIEW" to the Oregon Supreme Court which was considered as a petition to reconsider in the Oregon Court of Appeals prior to its submission to the Oregon Supreme Court.

The denial of right of trial by jury protected by the First Amendment was claimed in the petitioner's "Appellant's

second brief and Abstract of record," "Appellant's third brief and abstract of record," in "Objections to any awards of attorney fees" submitted to the Oregon Court of Appeals, and in "PETITION FOR REVIEW" to the Oregon Supreme Court which was considered by the Oregon Appeals Court as a petition for it to reconsider.

The issue of violation of the 14th Amendment as to denial of right to an impartial judge was raised in "Appellant's Reply Brief," (first of 3) submitted to the Oregon Court of Appeals. The issue of unconstitutionality of ORS 14.260 was submitted at that time.

Issue of ORCP Rule 68 and ORS 20.105 being violative of the 14th Amendment and that any award of attorney fees and/or costs and disbursements would violate his rights guaranteed by the 14th Amendment was raised in the trial court in petitioner's "Objections to award of

attorney fees and costs and disbursements." Violation of the 14th Amendment as to awards of costs and disbursements was claimed in the trial court on August 10, 1987, in petitioner's "Objection to proposed judgment." Issue of Rule 68 and ORS 20.190 being violative of the 14th Amendment was raised in the first "Appellant's Brief and Abstract of Record." Entry of judgments for costs and disbursements on December 7, 1987, without hearing in violation of ORCP Rule 68 C.(4)(c), after objections were submitted on August 10, 1987, and in violation of the due process clause of the 14th Amendment was submitted at first opportunity to the Court of Appeals in petitioner's "Appellant's Reply Brief." (the first of 3). Violation of petitioner's rights guaranteed by the 1st and 14th Amendments by award of attorney fees was presented to the Court of Appeals

at first opportunity after their awards in his "Appellant's Second Brief and Abstract of Record."

After claims of unconstitutionality of statutes, and claims of injury and damages to the petitioner proximately resulting from violations of 1st and 14th Amendment rights were submitted, the trial court dismissed the case without trial, awarded costs, disbursements, and attorney fees to the defendants, rejecting without comment as to the Constitutional and other federal issues properly raised. The Oregon Court of Appeals affirmed the judgment of the trial court without opinion, and the Oregon Supreme Court denied review and reconsideration, rejecting claims of violations of Constitutional rights and claims of unconstitutional statutes and rules. Unconstitutionality of ORAP 11.10 was presented to the Court of Appeals in petitioner's "Objections to any awards

of attorney fees" when two firms submitted petitions for such awards to the Court of Appeals. The Court of Appeals rejected the argument and awarded them attorney fees in excess of $11,000, subject of remand by the Supreme Court for failure to state findings to support such awards thereby rejecting the claim of unconstitutionality of the rule.

ARGUMENT

Deprival of First Amendment rights

The issues of this complaint are matters of public political concern. The denial of right of trial by jury in this case is a denial of the right of the petitioner to present the issues of this case to the public in violation of the First Amendment. In addition to other fraudulent and criminal acts, **the public would be outraged to know of secret conferences between insurance company lawyers and judges and falsifications of**

transcripts of hearings and trial proceedings by court reporters under the direction and with the approval of state and federal judges. Illegal awards of attorney fees and threats of such are punishment and threats of punishment to suppress First Amendment rights.

Deprival of 14th Amendment rights

The petitioner was denied the right to an impartial judge, denied the right of trial, and money was taken by way of illegal awards of costs, disbursements, prevailing party fees, and defendants' attorney fees in violation of petitioner's rights guaranteed by the due process clause of the 14th Amendment. He is further threatened with illegal taking of his money under guise of attorney fees by the Oregon Court of Appeals under color of ORAP 11.10 which does not provide for a hearing. To not miss the main illegality, it is emphasized that without the illegal

denial of trial there would be no color of basis for those illegal awards of attorney fees, costs, and disbursements.

ORCP 68A.(2) defines "costs and disbursements," and states, they "include the fees of officers and witnesses; the expense of publication of summonses or notices, and the postage where the same are served by mail; the compensation of referees; the necessary expense of copying of any public record, book or document used as evidence on the trial; a reasonable sum paid a person for executing any bond, recognizance, undertaking, stipulation or other obligation therein; and any other expense specifically allowed by agreement, by these rules, or by other rule or statute." That enumeration is of expenses that are incurred by trial. It does not include filing fees and many other items costs of which were illegally awarded defendants. By the rule of

ejusdem generis, it is clear that in allowing costs and disbursements that the legislature presumed trial by jury as provided in the Oregon Constitution, Art. I, ss. 16,17. ORCP Rule 21A does not provide award of costs and disbursements against the party dismissed for failure to state a claim and it does not state that party so dismissed is a "prevailing party," as provided in rules where such is intended. Provisions for costs and disbursements are explicit in Rule 69 for default judgment and in voluntary dismissal in Rule 54A. No such provisions are made for involuntary dismissal by Rule 54B or by Rule 21A. **A plaintiff's suit could not be dismissed without his consent at common law. 27 CJS Dismissal & Nonsuit s.46. Therefore, Rule 21A under color of which this case was dismissed must be strictly interpreted.** ~~Clearly,~~ the legislature did not intend that a party

involuntarily dismissed by Rule 21A would be assessed costs even as limited by ORCP Rule 68 or prevailing party fees provided by ORS 20.190. The defendants were awarded filing fees and other expenses not provided in any event by Rule 68A.(2), and "prevailing party" fees not allowed for dismissal by Rule 21A with the court acting under color of ORS 20.190. The awards of costs, disbursements, and "prevailing party fees" to the defendants were in conflict with rules of procedure and Oregon statutes, and are taking of the petitioner's property without due process of law in violation of the 14th Amendment. The petitioner timely submitted objection to proposed costs, disbursements and prevailing party fees in accord with Rule 68 C.(4)(b). Judgments for costs, disbursements, and prevailing party fees were entered without hearing in violation of Rule 68 C.(4)(c). Those awards and

judgments are taking of property of the petitioner without due process of law in violation of the 14th Amendment. It is submitted that Rule 68A.(2) and ORS 20.190 violate the due process clause of the 14th Amendment of the U.S. Constitution subject of the rule of being void for vagueness, and the taking of the petitioner's property under color of those rules violates the 14th Amendment.

After secret meetings with defendants, Judge Jackson awarded defendants more than $20,000.00 in attorney fees under color of ORCP Rules 17 and 68 and ORS 20.105. ORS 20.105 requires a party to be a "prevailing party" to be awarded attorney fees. Involuntary dismissal by Rule 21A does not provide that the dismissed party is a "prevailing party." In addition, and in the alternative, that rule and that statute violate the 1st and 14th Amendments of the U.S. Constitution

because they are void for vagueness and because they are designed to punish and threaten punishment for the right to trial and the open and free access to use of courts as guaranteed by the U.S. Constitution including the 14th Amendment. Furthermore, there was no evidence whatsoever that the petitioner "wilfully disobeyed a court order or acted in bad faith, wantonly or solely for oppressive reasons" as required by ORS 20.105. The defendants were outrageously, flagrantly, openly awarded fees for time spent conspiring secretly with Oregon Judges Yraguen, Gooding, and Jackson, and presumedly with each other. Judge Jackson awarded defendants fees for time in appeal, which was not in the jurisdiction of the trial court. Judge Jackson illegally awarded the defendants herein fees for time spent seeking injunction in the federal court where they never entered

appearances as attorneys, fees which were clearly not within the subject matter jurisdiction of the state courts. They were even awarded fees for reading a copy of a complaint by the petitioner addressed to the Grievance Committee of the Supreme Court who forwarded it to the Oregon Bar Association to consider attorney misconduct. (The Oregon Bar Association through its Professional Liability Fund was defending these lawyer-defendants in conflict of interest.) Each of the defendants petitioned the Court for award of attorney fees stated to be based upon Rule 68C(4), ORCP. Except for Hartford and the Yturri firm, the petitions were also claimed to be based upon ORS 20.105. On the other hand, the judgments of attorney fees were based upon ORS 20.105 and ORCP Rule 17. There was no notice of hearing or hearing as to judgments based upon ORCP Rule 17. Rule 17 was amended to

be in effect September 27, 1987, providing for sanctions including award of attorney fees for violation of the rule which provides that a signature on a pleading, motion, or other paper certifies that it is "well grounded in fact and is warranted by existing law or a good faith argument ***, and that it is not interposed for any improper purpose ***." Other than notices of appeal, only one document was filed by the petitioner in the Circuit Court after September 27, 1987. That was his "Objections to award of attorney fees and costs and disbursements." The inference is clear that because of the objections, the claim of basis of Rule 68 was dropped in the judgment and Rule 17 was added as a basis. The inference is clear that Judge Jackson found merit in the document. Apparently Judge Jackson on his own motion and by his fiat punished the petitioner for submitting a defense for illegal award

of costs, disbursements, and attorney fees, which included facts and arguments presented herein. It is submitted that Rule 17, ORCP, and ORS 20.105 violate the due process clause of the 14th Amendment of the U.S. Constitution by providing for the taking of property without hearing. It is further and in the alternative submitted that ORS 20.105 violates the due process clause of the 14th Amendment because of vagueness as to what constitutes a "prevailing party." **Rule 68, Rule 17, and ORS 20.105** violate the due process clause of the 14th Amendment of the U.S. Constitution by intentionally providing illegal unconstitutional closure of the courts except to the favored. The real purpose of those statutes, together and each of them, is to punish and threaten to punish the rightful exercise of the Constitutional protected right of trial, and that was their actual use in

this case. It was not enough that insurance companies can conspire secretly with judges, court clerks, and court reporters to dismiss cases, falsify dates of court filings, falsify transcripts of hearings and trials, destroy property and evidence, and conspire to commit perjury and tamper with jurors as allowed in circumstances of this lawsuit. With propaganda of an "insurance crisis," the Oregon legislature composed largely of lawyers who represent insurance companies and others who must cater to them for favorable settlements of cases, passed this and other legislation to further aid insurance companies to illegally avoid paying their obligations of contracts.

The petitioner is also being threatened by The Oregon Court of Appeals under color of a similar rule, ORAP 11.10 combined with ORS 20.105, which provides for the taking of property without hearing in

violation of the due process clause of the 14th Amendment. After the petitioner filed objections in the Court of Appeals to award of attorney fees, including claims of unconstitutionality of ORAP 11.10 and ORS 20.105 and threatened taking of property without due process of law in violation of the 14th Amendment, that Court awarded two law firms fees in amount exceeding $11,000 without hearing. (The other two firms did not seek attorney fees in the Appeals Court.) Apparently rejecting claim of unconstitutionality of ORS 20.105 and ORAP 11.10, The Oregon Supreme Court remanded for findings. The Supreme Court "mistakenly" stated, "Both petitions for attorney fees, however, were based solely on ORS 20.105(1), ***." (page A-15, Appendix infra.) Each of the two petitions started, "Pursuant to ORAP 11.10(1) and ORS 20.105(1),***."

Furthermore, there was no evidence that

the petitioner violated Rule 17, ORAP 11.10, or ORS 20.105.

Pursuant to the conspiracy to obstruct justice subject of this lawsuit, the petitioner illegally and fraudulently has been denied the right of trials and illegally denied the benefit of a jury verdict in his favor in the amount of $730,000.00. Judge Finesilver illegally under color of state statutes threatened to take $48,000 to give the wrongdoers. Judge Redden without jurisdiction of the case or of the issue of documents filed in the state court as to compliance with FRCP Rule 11, took $5,000 for Hartford. Judge Jackson illegally took an additional $20,000 by awards to the conspirators and to punish the petitioner for commencing this lawsuit. The Oregon Court of Appeals threatens to take another $11,000 to benefit the wrongdoers. The petitioner's right to practice medicine was maliciously

destroyed. As with prior lawsuits, this lawsuit has been illegally manipulated by defendants and coconspirator judges like a confidence scheme. In violation of the 1st Amendment and without due process of law in violation of the 14th Amendment, the petitioner has been denied the right of an impartial judge, denied the right of trial, property by way of money judgments has been taken, and the defendants have even been allowed to flaunt outrageously their control of courts by openly billing and obtaining judgments for attorney fees for secret conferences with judges.

CONCLUSION

For the foregoing reasons this petition for writ of certiorari should be granted.

Respectfully submitted by

Donald E. Tyler, M.D.
Petitioner, pro se
1092 SW 2nd Ave.
Ontario, Or 97914

June , 1989

APPENDIX A

ORDERS BY CIRCUIT COURT

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D., Plaintiff, vs. HARTFORD INSURANCE GROUP, et al., Defendants. Case No. 87-04-21572L

ORDER ALLOWING MOTIONS TO DISMISS.

Various pending motions referred to individually hereinafter came on for hearing on July 24, 1987 before the court. Plaintiff appeared in person and was not represented by counsel. Defendants Hartford Insurance Group, Yturri, Rose, Burnham, Ebert and Bentz, Carl Burnham, Jr., Cliff S. Bentz and Teresa J. Hutchens, appeared by counsel, Teresa J. Hutchens with Mr. Burnham also appearing personally. Defendant Debbie Freepond (sic) Craig, defendants Vergeer Roehr and Sweek and Frederick (sic) P. Roehr individually appeared by counsel,

Frederick (sic) P. Roehr; defendants Kenneth E. Roberts, Kenneth E. Roberts, P.C., and Schwabe, Williamson and Wyatt appeared by counsel, Mr. Mark H. Wagner; defendants Edwin G. Ruland and Donald P. Smith appeared by counsel, James C. Carter, and defendants James C. Carter individually and Holmes DeFranco (sic) and Schulte, P.C., appeared by counsel, Mr. James C. Carter. Mr. Wagner and Mr. Roeher (sic) were present by telephone. The court heard the arguments of the Plaintiff and has considered his Memorandum filed July 23, 1987 and has also considered his Motion and Affidavit to Disqualify the undersigned as the judge to act in this case. This Motion and Affidavit was filed on July 23, 1987. Now being fully advised, the court finds as follows:

1. The undersigned was assigned to this case by the Honorable Edwin C.

Peterson, Chief Justice of the Supreme Court of Oregon on July 9, 1987. On July 10, 1987, all parties were advised of this appointment by mail. Furthermore, the Plaintiff had already disqualified the Honorable F.J. Yraguen, Circuit Judge for Malheur and Harney counties and the Honorable R.T. Gooding from Union and Wallowa counties. Opposing counsel were not served with copies of the Motion and Affidavit to disqualify the undersigned before the hearings set for July 24, 1987.

The undersigned has had no prior connection with the case, other than to read the voluminous file, has no prejudices or bias toward the Plaintiff and has no obligation or connection with the Defendants, other than a professional relationship of attorney and judge, with those Defendants who occasionally practice before me. I therefore decline to

disqualify myself to hear this matter and the Motion for change of judge should be and hereby is DENIED.

2. Turning next to Plaintiff's Motion to find Defendants Yturri, Rose, Burnham, Ebert and Bentz and Anthony Yturri, Carl Burnham, Jr., Cliff S. Bentz and Teresa J. Hutchens in default, the Plaintiff has obviously misconstrued ORCP 69. Said Motion should be and hereby is DENIED.

3. We turn next to the various motions of the several defendants to dismiss for failure to state a claim or cause of action. The Plaintiff, representing himself, has filed a 92 page complaint, together with exhibits attached of about twice that many additional pages. It is obviously another attempt in a series of lawsuits to obtain redress for real or imagined damages arising out of a series of incidents in Colorado, not

Oregon. Plaintiff's complaint, including its exhibits by its own allegations reveals that it is an attempt to relitigate a matter commenced in the Circuit Court of the State of Oregon for Malheur County on July 7, 1986 as case numbers 86-06-20969-L (See Exhibit "A" to Plaintiff's complaint). The case was removed to Federal Court. (See Exhibit "B" to Plaintiff's complaint). Judge Redden issued his opinion on March 31, 1987. (See Exhibit "R" to Plaintiff's complaint). Plaintiff herein was ordered to pay Defendant Hartford's attorney fees and costs in the sum of $4,976.41. (See Exhibit "T" to Plaintiff's complaint).

There was no appeal.

This lawsuit is no different from the last, except that Plaintiff now attempts to involve the attorneys for the Defendants previously sued by claiming

they are part of the alleged conspiracy he claimed in his original lawsuit.

In the Court's opinion, adding different Defendants and claiming a conspiracy in removing the case from State to Federal Court does not change the basic underlying claim which has already been determined and is therefore res judicata and Plaintiff is collaterally estopped from raising the same issues in this litigation.

Under different circumstances, the Court could go along with plaintiff's argument that claiming res judicata would be an affirmative defense, but here the Plaintiff has himself pled the fact that the case was previously decided in Federal Court. It is obvious that Plaintiff has no cause of action against the Defendants, or any of them, in spite of 92 pages of incomprehensible claims and faulty conclusions.

All of Defendants' Motions to Dismiss for failure to state a cause of action should be and hereby are ALLOWED.

Various other grounds have been alleged for dismissal, including lack of jurisdiction over the out-of-state Defendants, and lack of jurisdiction over Defendant Hartford for failure to comply with Rule 7(d)(3)(b).

It is the Court's opinion that the case should also be dismissed as to the out-of-state individual Defendants for lack of personal jurisdiction over them but that Hartford, particularly in view of its subsequent appearance, has been properly served.

The Court does not feel that it is necessary to rule on the other various grounds for dismissal and particularly the Motions to Strike and Make More Definite and Certain, since the basic question relates to the sufficiency of the

complaint.

In as much as it appears that to allow the Plaintiff leave to amend would serve no useful purpose, leave to amend is DENIED. Defendants are allowed costs and disbursements.

DATED this 30th day of July, 1987.

(signed) WILLIAM L. JACKSON

CIRCUIT JUDGE

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D.,Plaintiff, vs. HARTFORD INSURANCE GROUP, et al., Defendants. No. 87-04-21572-L

JUDGMENT OF DISMISSAL

The court has previously allowed motions to dismiss filed in behalf of defendants Hartford Insurance Group, Yturri, Rose, Burnham, Ebert & Bentz, Anthony Yturri, Carl Burnham, Jr., Cliff S. Bentz, Teresa J. Hutchens, Debbie Freepons Craig, Frederic P. Roehr,

Kenneth E.Roberts, James C. Carter, Thomas L. Roberts, Edwin G. Ruland, Donald P. Smith, Jr., Holmes, DeFrancq & Schulte, P.C., Kenneth E. Roberts, P.C., Schwabe, Williamson, Wyatt, Moore & Roberts, Vergeer, Roehr & Sweek. The court further finds that there is no record of service on six other defendants sued under fictitious names and that the case should be dismissed as to these parties as well.

NOW, THEREFORE, IT IS HEREBY ADJUDGED that plaintiff's complaint be and hereby is dismissed with prejudice as to all defendants and that plaintiff take nothing thereby;

IT IS FURTHER ADJUDGED that the defendants named below shall have judgment against the plaintiff Donald E. Tyler, M.D. for attorney fees and/or costs and disbursements as set forth after their respective names and that execution issue therefor: Defendant Hartford Insurance

Group the sum of $142.50. Defendant Debbie Freepons Craig the sum of $80.50. Defendants Vergeer, Roehr & Sweek; Frederic P. Roehr the sum of $80.50. Defendant Kenneth E. Roberts; Kenneth E. Roberts, P.C.; Schwabe, Williamson, Wyatt, Moore & Roberts the sum of $80.50. Defendants Edwin G. Ruland; Donald P. Smith, Jr., the sum of $80.50. Defendants Holmes, DeFrancq & Schulte, P.C.; James C. Carter the sum of $80.50.

DONE AND DATED this 7th day of December, 1987.

(signed) William L. Jackson

Circuit Judge

TRIAL COURT ORDERS AWARDING ATTORNEY FEES

(On December 23, 1987, the plaintiff-petitioner filed and served upon defendants "OBJECTIONS TO AWARD OF ATTORNEY FEES AND COSTS AND DISBURSEMENTS," which incorporated petitioner's "Objections to proposed

judgment" filed August 10, 1987. Statutes and rules that violate the 14th Amendment and violation of rights of petitioner guaranteed by the 14th Amendment were claimed with other appropriate objections including all presented in this petition.)

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP; YTURRI,ROSE, BURNHAM, EBERT & BENTZ; ANTHONY YTURRI, CARL BURNHAM, JR.; CLIFF S. BENTZ; TERESA J. HUTCHENS; DEBBIE FREEPONS CRAIG; FREDERIC P. ROEHR; KENNETH E. ROBERTS, JAMES C. CARTER; THOMAS L. ROBERTS; EDWIN J. RULAND; DONALD P. SMITH, JR.; HOLMES, DeFRANCQ & SCHULTE, P.C.; KENNETH E. ROBERTS, P.C.; SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS; VERGEER, ROEHR & SWEEK; X INSURANCE COMPANY, a fictitious name; XX INSURANCE COMPANY, a fictitious name; Y INSURANCE COMPANY, a fictitious name; YY

INSURANCE COMPANY, a fictitious name; and ZZ INSURANCE COMPANY, a fictitious name, Defendants. No. 87-04-21572-L.

JUDGMENT FOR ATTORNEY FEES.

THIS MATTER came before the court on January 19, 1988 upon the motion of Defendants Edwin J. Ruland and Donald P. Smith, Jr. who petitioned the Court for an award of attorney's fees in the amount of $5,360.07. Said petition was supported by the affidavit of counsel for defendants. Plaintiff filed an objection to said petition. Defendants Edwin J. Ruland and Donald P. Smith, Jr. appeared via telephone conference call through their attorney Lee Aronson; Defendants Yturri, Rose, et al and Hartford Insurance Group appeared by and through their attorney Teresa Hutchins (sic); Defendants Kenneth E. Roberts, P.C. and Schwabe, Williamson, et al appeared via telephone conference call through their attorney Kevin Kiely;

and Defendants Debbie Freepons Craig, Frederic P. Roehr and Vergeer, Roehr & Sweek appeared via telephone conference call through their attorney, Fred Roehr. Plaintiff did not appear.

The Court having reviewed the petitions for attorney's fees and supporting affidavits and Plaintiff's objections thereto and having heard the argument of counsel, IT IS HEREBY ORDERED AND ADJUDGED that Defendants Edwin J. Ruland and Donald P. Smith, Jr. shall have judgment against Plaintiff for their attorney's fees in the amount of $5,360.07. This award is made pursuant to ORS 20.105 and ORCP 17, the Court having found that Plaintiff has asserted his claims in bad faith and for oppressive reasons and is not made in good faith, but has been interposed for an improper purpose. DATED this 30th day of January, 1988. (signed) William L. Jackson Circuit Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D., Plaintiff, v. HARTFORD INSURANCE GROUP, et al., Defendants. No. 87-04-21572-L

ORDER ON PETITION FOR AWARD OF ATTORNEY FEES TO DEFENDANTS KENNETH E. ROBERTS, KENNETH E. ROBERTS, P.C., AND SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS

The motion of Defendants, Kenneth E. Roberts, Kenneth E. Roberts, P.C., and Schwabe, Williamson, Wyatt, Moore & Roberts, for an award of attorney fees against plaintiff, Donald E. Tyler, came on for hearing before the Honorable William L. Jackson, Circuit Court Judge, on January 19, 1988. Moving defendants were represented by G.Kevin Kiely, one of their attorneys, who appeared by telephone. Other defendants appeared through their respective counsel of record. Plaintiff, Donald E. Tyler, M.D.,

filed objections prior to the time for hearing, but did not appear. The Court has considered moving defendant's Petition and Affidavit of Ridgway K. Foley, Jr. in support of said motion, and plaintiff Donald L.(sic) Tyler's written objections thereto dated December 19,1987, and the other pleadings and records on file herein, and being fully advised in the premises, it is hereby

ORDERED, that the Motion of Defendants Kenneth E. Roberts, Kenneth E. Roberts, P.C., and Schwabe, Williamson, Wyatt, Moor & Roberts for an award of attorney fees in the amount of $4,626.75 is granted, pursuant to ORS 20.105 and ORCP 17C.

The Court finds that plaintiff Donald E. Tyler, M.D. acted in bad faith, wantonly and solely for oppressive reasons, in filing and maintaining this matter and in persisting and filing sham and frivolous pleadings and objections of

great bulk and absolutely no merit.

The Court further finds that plaintiff has deliberately and continuously abused court processes and has filed pleadings, objections and other papers with the Court solely for harassment and delay, needlessly increasing the costs of this litigation to all defendants.

DATED this 2nd day of February, 1988.

(signed) William L. Jackson

Circuit Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D., PLAINTIFF, VS. HARTFORD INSURANCE GROUP, et al., DEFENDANTS. CASE NO. 87-04-21572-L

JUDGMENT FOR ATTORNEY FEES

THIS MATTER came before the Court on January 19, 1988 upon the motion of Defendants Hartford and Yturri,Rose, Burnham,Ebert & Bentz who petitioned the Court for an award of attorney's fees in

the amount of $5,417.37. Said petition was supported by the affidavit of counsel for defendants. Plaintiff failed to appear.

The Court finds that the Plaintiff's Complaint in the above captioned action was filed in bad faith and for the improper purpose of harassing the Defendants. The Court further finds that the Plaintiff's Complaint in the above-captioned action was not well grounded in fact or in law, that, therefore, appropriate sanctions should be imposed against the Plaintiff and that an award of the Defendant's fees is an appropriate sanction.

NOW, THEREFORE, IT IS HEREBY ADJUDGED that Defendants Hartford and Yturri,Rose,Burnham, Ebert & Bentz shall have Judgment against the Plaintiff, Donald E. Tyler, for attorney fees in the amount of $5,417.37. This award is made

pursuant to ORS 20.105 and ORCP 17, the Court having found that Plaintiff has asserted his claims in bad faith and for oppressive reasons and is not made in good faith, but has been interposed for an improper purpose.

DATED this 14th day of March, 1988.

(signed) William L. Jackson

Circuit Court Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR

DONALD E. TYLER, M.D., Plaintiff, vs. HARTFORD INSURANCE GROUP, et al, Defendants. No. 87-04-21572-L

JUDGMENT FOR ATTORNEY FEES

THIS MATTER came before the Court on January 19, 1988, upon the motion of Defendants Debbie Freepons Craig, Frederic P. Roehr and Vergeer, Roehr & Sweek who petitioned the Court for an award of attorney fees in the amount of $4,600.45. Said Petition was supported by the

affidavit of counsel for Defendants. Plaintiff failed to appear.

The Court finds that the Plaintiff's Complaint in the above-captioned action was filed in bad faith and for the improper purpose of harassing the Defendants. The Court further finds that the Plaintiff's Complaint in the above-captioned action was not well grounded in fact or in law, that therefore, appropriate sanctions should be imposed against the Plaintiff and that an award of the Defendants' attorney fees is an appropriate sanction.

NOW, THEREFORE, IT IS HEREBY ADJUDGED that Defendants Debbie Freepons Craig, Frederic P. Roehr and Vergeer, Roehr & Sweek shall have Judgment against the Plaintiff, Donald E. Tyler, for attorney fees in the amount of $4,600.45. This award is made pursuant to ORS 20.105 and ORCP 17, the Court having found that

Plaintiff has asserted his claims in bad faith and for oppressive reasons and is not made in good faith, but has been interposed for an improper purpose.

DATED this 5th day of April, 1988.

(signed) William L. Jackson

Circuit Judge

OREGON COURT OF APPEALS ORDERS

IN THE COURT OF APPEALS OF THE STATE OF OREGON, DONALD E. TYLER, M.D., Appellant, v. HARTFORD INSURANCE GROUP, YTURRI, ROSE, BURNHAM, EBERT & BENTZ, ANTHONY YTURRI, CARL BURNHAM, JR., CLIFF S. BENTZ, TERESA J. HUTCHENS, DEBBIE FREEPONS CRAIG, FREDERIC P. ROEHR, KENNETH E. ROBERTS, JAMES C. CARTER, THOMAS L. ROBERTS, EDWIN G. RULAND, DONALD P. SMITH, JR., HOLMES, DeFRANCQ & SCHULTE, P.C., KENNETH E. ROBERTS, P.C., SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, VERGEER, ROEHR & SWEEK, X INSURANCE COMPANY, a fictitious name, XX INSURANCE COMPANY, a fictitious name, Y

INSURANCE COMPANY, a fictitious name, YY INSURANCE COMPANY, a fictitious name, Z INSURANCE COMPANY, a fictitious name, ZZ INSURANCE COMPANY, a fictitious name, Respondents (87-04-21572-L; CA A45275) Appeal from Circuit Court, Malheur County, William L. Jackson, Judge. Submitted on record and briefs August 31, 1988. Donald E. Tyler, M.D., Ontario, filed the briefs pro se for appellant. 3375N FILED: October 5, 1988.

Teresa J. Hutchens, Carl Burnham, Jr., Cynthia M. Fraser, and Yturri, Rose, Burnham, Ebert & Bentz, Ontario, filed the briefs for respondents Hartford Insurance Group, Yturri, Rose, Burnham, Ebert & Bentz, Anthony Yturri, Carl Burnham, Jr., Cliff S. Bentz, and Teresa J. Hutchens. Frederic P. Roehr, and Vergeer, Roehr & Sweek, Portland, filed the briefs for respondents Debbie Freepons Craig, Frederic P. Roehr, and Vergeer, Roehr &

Sweek. Mildred J. Carmack, and Schwabe, Williamson & Wyatt, Portland, filed the briefs for respondents Kenneth E. Roberts, Kenneth E. Roberts, P.C., Thomas L. Roberts, and Schwabe, Williamson, Wyatt, Moore & Roberts. Lee Aronson, and Holmes, DeFrancq & Schulte, P.C., Portland, filed the briefs for respondents Edwin G. Ruland, Donald P. Smith, Jr., James C. Carter, and Holmes, DeFrancq & Schulte, P.C. No appearance for respondents X Insurance Company, a fictitious name, XX Insurance Company, a fictitious name, Y Insurance Company, a fictitious name, YY Insurance Company, a fictitious name, Z Insurance Company, a fictitious name, and ZZ Insurance Company, a fictitious name. Before Joseph Chief Judge, and Warren and Rossman, Judges. **Affirmed without opinion.** Costs awarded to the prevailing party or parties payable by appellant.

IN THE COURT OF APPEALS OF THE STATE

OF OREGON. TYLER, DONALD E,M D Plaintiff Appellant v. HARTFORD INS GROUP, YTURRI, ROSE,BURNHAM,EBERT&BENTZ, YTURRI, ANTHONY, BURNHAM, CARL JR, BENTZ,CLIFF S, HUTCHENS,TERESA J, CRAIG,DEBBIE FREEPONS, ROEHR,FREDERIC P, ROBERTS, KENNETH E, CARTER, JAMES C, ROBERTS, THOMAS L, RULAND, EDWIN G, SMITH,DONALD P JR, HOLMES,DEFRANCQ &SCHULTE,P C, ROBERTS, KENNETH E P C,SCHWABE,WILLIAMSON,WYATT, MOORE&ROBERTS, VERGEER,ROEHR &SWEEK, X INS CO,XX INS CO, Y INS CO, YY INS CO, Z INS CO, ZZ INS CO, Defendants Respondents.

ORDER DENYING RECONSIDERATION

CA A45275, SC S35683

"The Court of Appeals has considered the Petition for Review filed in this case as a Petition for Reconsideration and has, on DECEMBER 09, 1988, denied the petition. ORAP 10.10. The Supreme Court may not proceed to determine whether to grant review. The appellate court decision is

not enforceable until the Supreme Court has completed its review of the petition. ORAP 11.03." (signed) George M. Joseph, Chief Judge.

AWARD OF ATTORNEY FEES BY APPEALS COURT

IN THE COURT OF APPEALS OF THE STATE OF OREGON DONALD E. TYLER, M.D., Plaintiff-Appellant, v. HARTFORD INSURANCE GROUP, et al., Defendants-Respondents. Malheur Circuit Court No. 87-04-21572-L, CA A45275 **ORDER AWARDING COSTS AND ATTORNEY FEES**

The petition for attorney fees filed by Mildred Carmack on behalf of respondents Kenneth E. Roberts, Kenneth E. Roberts, P.C., and Schwabe, Williamson, Wyatt, Moore & Roberts is allowed in the amount of $6,946.75. The claim for "disbursements" of $614.12 in the petition for attorney fees is disallowed on the ground that attorney fees do not include disbursements. A separate cost bill (sic,

statement of costs and disbursements) was filed on behalf of respondents Thomas L. Roberts and Kenneth E. Roberts. That statement of costs and disbursements is allowed in the amount of $289.

The petition for attorney fees filed by Lee Aronson on behalf of respondents Edwin G. Ruland, Donald P. Smith, Jr., James C. Carter, and Holmes, DeFrancq & Schulte, P.C., is allowed in the amount of $4,610. The statement of costs and disbursements filed on behalf of these parties is allowed in the amount of $281, which amount includes the filing fee of $60 paid by these parties and the prevailing party of fee of $85.

The statement of costs and disbursements filed on behalf of respondents Hartford Insurance Group, Yturri, Ross(sic), Burnham, Ebert & Bentz, Anthony Yturri, Carl Burnham, Jr., Cliff S. Bentz and Teresa J. Hutchens is allowed in the

amount of $391.46, which amount includes the filing fee paid by those parties and the prevailing party fee.

The statement of costs and disbursements filed on behalf of respondents Frederic P. Roehr, Vergeer, Roehr & Sweek and Debbie Freepons Craig is allowed in the amount of $218.50. Jan 12, 1989 (signed) George M. Joseph, Chief Judge

OREGON SUPREME COURT ORDERS

IN THE SUPREME COURT OF THE STATE OF OREGON, TYLER, DONALD E,MD Petitioner v. HARTFORD INS GROUP, YTURRI,ROSE,BURNHAM, EBERT&BENTZ, YTURRI,ANTHONY, BURNHAM, CARL JR, BENTZ,CLIFF S, HUTCHENS,TERESA J, CRAIG,DEBBIE FREEPONS, ROEHR,FREDERIC P, ROBERTS,KENNETH E, CARTER,JAMES C, ROBERTS,THOMAS L, RULAND,EDWIN G, SMITH, DONALD P JR, HOLMES,DEFRANCQ&SCHULTE,P C, ROBERTS,KENNETH E PC, SCHWABE,WILLIAMSON, WYATT,MOORE&ROBERTS, VERGEER,ROEHR&SWEEK, X INS CO, XX INS CO, Y INS CO, YY INS CO,

Z INS CO, ZZ INS CO Respondents.

ORDER DENYING REVIEW

CA A45275, SC S35683

The Court has considered the petition for review and ORDERS that it be denied.

DATE: JANUARY 18, 1989.

Jones, J., not participating

(signed) Edwin J. Peterson Chief Justice

IN THE SUPREME COURT OF THE STATE OF OREGON DONALD E. TYLER, M.D., Petitioner on Review, v. HARTFORD INSURANCE GROUP, YTURRI, ROSE, BURNHAM, EBERT & BENTZ, ANTHONY YTURRI, CARL BURNHAM, JR., CLIFF S. BENTZ, TERESA J. HUTCHENS, DEBBIE FREEPONS CRAIG, FREDERIC P. ROEHR, KENNETH E. ROBERTS, JAMES C. CARTER, THOMAS L. ROBERTS, EDWIN G. RULAND, DONALD P. SMITH, JR., HOLMES, DeFRANCQ & SCHULTE, P.C., KENNETH E. ROBERTS, P.C., SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, VERGEER, ROEHR & SWEEK, X INSURANCE COMPANY, a fictitious name, XX INSURANCE

ZZ INSURANCE COMPANY, a fictitious name, Defendants.

COMPLAINT

Obstruction of Justice , Fraudulent use of legal proceedings, Racketeering, Personal injury. No. 87-04-21572-L

Filed April 29, 1987

CLAIM FOR RELIEF:

UNLAWFUL INTERFERENCE WITH AND OBSTRUCTION OF JUSTICE AND BY FRAUDULENT USE OF LEGAL PROCEEDINGS PURSUANT TO CONSPIRACY

1.

The PLAINTIFF complains of defendants jointly and severally and for cause of action alleges the following.

2.

Acts subject of this complaint occurred in the County of Malheur of the State of Oregon.

3.

Defendants herein and each of them conspired with each other and with others

to unlawfully intentionally obstruct, impair, and hinder the administration of law and judicial function in lawsuits in which the plaintiff had and has an interest and to fraudulently use legal proceedings to damage and injure the plaintiff. Pursuant to that conspiracy the defendants herein and each of them and by acts of their coconspirators committed unlawful and criminal acts alleged herein.

4.

Pursuant to conspiracy the defendants and each of them acted falsely and fraudulently to intentionally intimidate and cause the plaintiff injury by insulting, humiliating, and disparaging him in his professional qualifications. At all times pertinent herein defendants and their coconspirators knew that the plaintiff was and is qualified to practice medicine and surgery. In truth, after

20.105(1), which provides: "In any civil action, suit or other proceeding in a district court, a circuit court or the Oregon Tax Court, or in any civil appeal to or review by the Court of Appeals or Supreme Court, the court may, in its discretion, award reasonable attorney fees appropriate in the circumstances to a party against whom a claim, defends or ground for appeal or review is asserted, if that party is a prevailing party in the proceeding and to be paid by the party asserting the claim, defense or ground, upon a finding by the court that the party wilfully disobeyed a court order or acted in bad faith, wantonly or solely for oppressive reasons."

That statute does not expressly require the Court of Appeals to make findings on the record. Nevertheless, we conclude that findings are required. Otherwise, we have no basis upon which to review the

award of attorney fees, nor to consider what the Court of Appeals understood the relevant statutory words to mean. Accordingly, we remand this case to the Court of Appeals to make the necessary findings to support its order.

The petition for review is allowed. The decision of the Court of Appeals is vacated. The case is remanded to the Court of Appeals for further proceedings.

FOOTNOTES

The Court of Appeals affirmed this case on its merits October 5, 1988, and entered its order awarding attorney fees January 12, 1989. This court denied review January 18, 1989, and plaintiff's petition for reconsideration was denied on April 4, 1989.

IN THE SUPREME COURT OF THE STATE OF OREGON, DONALD E. TYLER, M.D., Plaintiff-Appellant, Petitioner on Review, Petitioner on Reconsideration, v. HARTFORD

INSURANCE GROUP, YTURRI, ROSE, BURNHAM, EBERT & BENTZ, ANTHONY YTURRI, CARL BURNHAM, JR., CLIFF S. BENTZ, TERESA J. HUTCHENS, DEBBIE FREEPONS CRAIG, FREDERIC P. ROEHR, KENNETH E. ROBERTS, JAMES C. CARTER, THOMAS L ROBERTS, EDWIN G. RULAND, DONALD P. SMITH JR., HOLMES, DeFRANCQ & SCHULTE, P.C., KENNETH E. ROBERTS, P.C., SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, VERGEER, ROEHR & SWEEK, X INSURANCE COMPANY, a fictitious name, Y INSURANCE COMPANY, a fictitious name, YY INSURANCE COMPANY, a fictitious name, Z INSURANCE COMPANY, a fictitious name, and ZZ INSURANCE COMPANY, a fictitious name, Defendants-Respondents, Respondents on Review, Respondents on Reconsideration.

AMENDED ORDER DENYING RECONSIDERATION

CA A45275, SC S35683

"The Court has considered the petition for reconsideration and orders THAT it be denied. DATED: April 5, 1989

Nunc pro tunc April 4, 1989"

(signed) Edwin J. Peterson

Chief Justice

COMPLAINT

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF MALHEUR DONALD E. TYLER, M.D., Plaintiff v. HARTFORD INSURANCE GROUP, YTURRI, ROSE, BURNHAM, EBERT & BENTZ, ANTHONY YTURRI, CARL BURNHAM, JR., CLIFF S. BENTZ, TERESA J. HUTCHENS, DEBBIE FREEPONS CRAIG, FREDERIC P. ROEHR, KENNETH E. ROBERTS, JAMES C. CARTER, THOMAS L. ROBERTS, EDWIN G. RULAND, DONALD P. SMITH, JR., HOLMES, DeFRANCQ & SCHULTE, P.C., KENNETH E. ROBERTS, P.C., SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, VERGEER, ROEHR & SWEEK, X INSURANCE COMPANY, a fictitious name, XX INSURANCE COMPANY, a fictitious name, Y INSURANCE COMPANY, a fictitious name, YY INSURANCE COMPANY, a fictitious name, Z INSURANCE COMPANY, a fictitious name, and

ZZ INSURANCE COMPANY, a fictitious name, Defendants.

COMPLAINT

Obstruction of Justice , Fraudulent use of legal proceedings, Racketeering, Personal injury. No. 87-04-21572-L

Filed April 29, 1987

CLAIM FOR RELIEF:

UNLAWFUL INTERFERENCE WITH AND OBSTRUCTION OF JUSTICE AND BY FRAUDULENT USE OF LEGAL PROCEEDINGS PURSUANT TO CONSPIRACY

1.

The PLAINTIFF complains of defendants jointly and severally and for cause of action alleges the following.

2.

Acts subject of this complaint occurred in the County of Malheur of the State of Oregon.

3.

Defendants herein and each of them conspired with each other and with others

to unlawfully intentionally obstruct, impair, and hinder the administration of law and judicial function in lawsuits in which the plaintiff had and has an interest and to fraudulently use legal proceedings to damage and injure the plaintiff. Pursuant to that conspiracy the defendants herein and each of them and by acts of their coconspirators committed unlawful and criminal acts alleged herein.

4.

Pursuant to conspiracy the defendants and each of them acted falsely and fraudulently to intentionally intimidate and cause the plaintiff injury by insulting, humiliating, and disparaging him in his professional qualifications. At all times pertinent herein defendants and their coconspirators knew that the plaintiff was and is qualified to practice medicine and surgery. In truth, after

completing required premedical education at U.C.L.A., he graduated from and received the degree of Doctor of Medicine from the University of Oregon Medical School in 1950, and was one of three in his class elected in his junior year to the Alpha Omega Alpha Honor Society. He served as a medical officer in the Navy during the Korean War. His postgraduate training included a rotating internship and residency in pathology at the University of Utah and a four year fellowship at the Mayo Clinic in general surgery and urology. He was an instructor in urology at the University of Utah Medical School from 1959 to the fall of 1964. In February, 1964, he was certified by the American Board of Urology. He was licensed to practice medicine by examination in the State of Oregon in 1951. He has authored articles based upon his original research in eight major

medical journals and has authored three scientific books.

5.

The defendants and each of them knowingly and intentionally joined and acted pursuant to an ongoing, continuing conspiracy to unlawfully and illegally interfere with and obstruct justice in lawsuits in which the plaintiff had and has an interest and which included extremely outrageous conduct committed pursuant to conspiracy to cause the plaintiff severe emotional distress. They had knowledge of acts committed pursuant to that conspiracy prior to their joining the conspiracy, and they acted pursuant to that conspiracy to cause the plaintiff injury and damage as herein alleged. Defendants include insurance companies who employed named individual and law firm defendants to commit the wrongful, unlawful, and criminal acts subject of

this complaint, and who directed, approved, and ratified those acts which were done for their benefit. The names of those insurance companies are unknown and they are designated by fictitious names in accord with Rule 20.H., O.R.C.P., and plaintiff requests their true names be added as defendants by amendment when known.

6.

The defendants and each of them are **liable for all damages proximately resulting from all acts committed pursuant to that total overall conspiracy** which they joined and in which they participated regardless of who committed them or where or when they were committed. Furthermore, and in addition, the defendants are liable for all injuries and damages to the plaintiff alleged herein from all acts alleged herein because of their having been proximately caused by **intentional acts of**

defendants and others which have combined to produce an indivisible, unapportionable injury. Acts committed intentionally to damage the plaintiff pursuant to the conspiracy subject of this complaint and damages which have been the proximate result thereof follow.

7.

The reason or motive of the defendants herein for their acts is that there was and is no legitimate defense for the lawsuits illegally obstructed subject of this complaint, and the acts of the defendants are admissions of that.

8.

Defendants herein are jointly and severally responsible for and liable for damages proximately caused by all acts committed pursuant to aforementioned continuing conspiracy including but not limited to damages alleged in EXHIBIT A , appended hereto and incorporated herein by

this reference, and they are jointly and severally responsible for and liable for damages for all other acts alleged herein. **Acts committed pursuant to the conspiracy** which proximately caused the plaintiff damages **for which defendants herein are liable** (paragraphs where details are found in EXHIBIT A are noted in parentheses below) **include but are not limited to:**

(1) acts which illegally deprived the plaintiff the benefit of a jury verdict in his favor in the amount of $730,000.00 plus interest, (detailed in paragraphs 25-31 of EXHIBIT A, appended hereto and incorporated herein by this and other references),

(2) theft and illegal destruction of 50 depositions consisting of over 3000 pages prior to trial which were the property of the plaintiff, evidence prior to trial, and evidence after trial before appeal, by **judges of the Colorado Court of Appeals**

and its clerk, and their illegal, outrageous, fraudulent acts to replace them with copies that would be legally useless in pending trials, for the purpose of illegally denying plaintiff his right of trial and to obstruct justice. Such fraudulent copying under guise of "reconstruction" included acts by their agent Debbie Freepons Craig acting in Ontario, Oregon, where those Colorado judges including defendants herein Smith and Ruland had a complete lack of jurisdiction, and where they were not acting in any judicial capacity, and she acted pursuant to instructions by aforementioned judges, (paragraphs 15, 18-22, EXHIBIT A),

(3) theft of depositions, property of the plaintiff, (paragraph 18),

(4) extortion of the plaintiff by judges of the Colorado Court of Appeals, (paragraph 20),

(5) concealment and destruction of trial transcripts, (paragraph 27, EXHIBIT A), (6) fraudulent fabrication of facts and fraudulent opinions by members of the Colorado Court of Appeals and by members of the U.S. Court of Appeals for the Tenth Circuit, (paragraphs 23, 46, 51), (7) illegal, unlawful order by Federal Judge Sherman Finesilver requiring plaintiff to post a bond in the outrageous amount of $48,000.00 fraudulently called a "cost bond" in the U.S. District Court for the District of Colorado under color and pretext of Colorado State statutes allowing order of cost bond for non-residents to use Colorado state courts, coupled with the illegal threat that he would illegally in his unrestricted power order payment of attorney fees of defendants from that bond. Because plaintiff refused to post such bond as a condition to sue in the United States

District Court and in an antitrust action not allowing defendants attorney fees in any instance, Finesilver, pursuant to conspiracy subject of this complaint, unlawfully dismissed the involved lawsuit, illegally depriving the plaintiff right to trial, (paragraphs 46-52, EXHIBIT A),

(8) illegal denial of plaintiff's right to trials in state and federal courts of the state of Colorado, and in effect illegally closing the courts in Colorado for his use as a plaintiff,

(9) unlawful changes in transcripts of trial proceedings to fraudulently falsify them, (paragraph 27, EXHIBIT A),

(10) perjury and subornation of perjury by lawyers, (paragraph 24, EXHIBIT A),

(11) jury tampering, (paragraph 26, EXHIBIT A),

(12) fraud by lawyers, (41, 46)

(13) initiation of a fraudulent lawsuit against the plaintiff through fraud and

collusion by Hartford Insurance Co., (paragraphs 41-43, EXHIBIT A),

(14) **breach of plaintiff's professional liability insurance** by a member of Hartford Insurance Group, to intimidate plaintiff to illegally prevent his rightful use of courts and to prevent his rightfully continuing to prosecute lawsuits in progress, **while the plaintiff was residing in Ontario, Oregon,** in addition to when he was residing in Colorado. (paragraphs 41-45, EXHIBIT A).

(15) abuse of use of a committee of the Colorado Medical Society, the Colorado Board of Medical Examiners, and the Grievance Committee of the Colorado Supreme Court by Hartford and coconspirators including St. Paul Insurance to threaten and abuse the plaintiff to prevent and interfere with the plaintiff's rightful use of courts involving lawsuits then in progress and to

prevent plaintiff from rightfully seeking remedy by future lawsuits, (paragraphs 44-45, 39-40, 38)

(16) unlawful, unethical, immoral requirement of plaintiff to give his **permission to Hartford Insurance to examine private,** personal, medical records of all patients cared for by plaintiff in hospitals as a precondition to renew his professional liability insurance to intimidate and punish the plaintiff to prevent his continuing to prosecute lawsuits then in progress against physician conspirators who were insured by Hartford and to prevent his initiating other lawsuits for damages due to acts committed pursuant to aforementioned conspiracy. (paragraphs 44-45, EXHIBIT A).

9.

On June 3, 1986, the plaintiff properly commenced Civil action No. 86-06-20969-L

by filing a complaint in the Circuit Court of the State of Oregon for the County of Malheur in Vale, Oregon. At 8:33 A.M., Monday, July 7, 1986, prior to any responses from defendants, in accord with Rule 23, Oregon Rules of Civil Procedure, the plaintiff rightfully filed in the aforementioned state court an **AMENDED COMPLAINT**, copy of which is appended hereto as **EXHIBIT A**, with its exhibits A through I. At all times pertinent herein all defendants and coconspirators named herein knew that **at that instant the "complaint" was no longer a pleading** or a part of the record as enunciated by the Oregon Supreme Court in Wells v. Applegate, 12 Or 208, 6 P 770 (1885) and in Noonan v. City of Portland, 161 Or 213, 88 P.2d 808 (1938), and by the U.S. Supreme Court in Young v. Martin, 8 Wall 354, 19 L.Ed. 418 (1869). A copy of that amended complaint, with filing time and

date stamped as in EXHIBIT A, and certified by the plaintiff on an attached page that it was filed in the state court July 7, 1986, was mailed on July 7, 1986, by certified mail with acknowledgment of receipts to defendants Hartford, (represented by Yturri, et al.), Judges Smith, Ruland, Foote, Vollack, Roan, Bockman, (represented by Carter), attorney Craig (represented by Carter and Roehr), Roberts (represented by K. Roberts), Bobbitt, Reid, Ferrin, (represented by Dave Frohnmayer, Attorney General of the State of Oregon, and Thomas K. Elden, Assistant Attorney General of the State of Oregon), and Judge Finesilver (Turner and Kobbervig). Kostol (represented by Frohnmayer and Elden) refused to accept delivery of the certified mail. Service of summonses and complaints upon the remainder of the defendants was illegally interrupted by acts subject of this

complaint.

10.

On or about July 3, 1986, and at other times since, **Charles H. Turner and Judith Kobbervig**, acting in conflict with their primary duty as **United States Attornèys** to prosecute for offenses against the United States, **conspired with defendants herein** and they and all defendants herein joined and acted pursuant to an ongoing conspiracy to unlawfully interfere with and obstruct the plaintiff's prosecution of the case of which **EXHIBIT A** is the AMENDED COMPLAINT including acts designed to deprive the plaintiff of his right to trial of that case in a court of the State of Oregon having legal jurisdiction. Knowingly joining the total conspiracy subject of this complaint Turner and Kobbervig acted pursuant to the total conspiracy as follows:

(a) On July 3, 1986, knowing their

misrepresentations were false and with the intent to enable themselves, defendants, and named coconspirators to fraudulently use legal proceedings and to thereby obstruct justice and injure and damage the plaintiff, they illegally filed in the U.S. District Court for the District of Oregon in Portland, Oregon, a false and fraudulent document labeled as a "petition for removal" of the lawsuit of **EXHIBIT A** to that court, copy appended hereto as **EXHIBIT B** (without the 24 page accompanying document presented as the "complaint"). Without claiming to represent any defendant in that case, and without prior court order authorizing them to act, they were strangers to the case, illegal meddlers, and **not acting within the duties of their offices.** All defendants herein and their named coconspirators including Turner, Kobbervig, Thomas K. Elden, Dave

Frohnmayer, Judge Redden, and Judge Yraguen at all times pertinent knew that a non-party could not remove a case from state to federal court as decided long ago in First Nat. Bank v. Pancake, 172 NC 513, 90 S.E. 515 (1916), in State v. Barnes, 5 ND 350, 65 N.W. 688 (1895), and in Nelson v. Peter Kiewit Sons' Co., 130 F.Supp. 59, (1955, NJ). Turner and Kobbervig by their aforementioned acts committed pursuant to conspiracy intentionally obstructed, impaired, and hindered the administration of law and judicial function by means of economic interference and obstacle in violation of ORS 162.235 (Obstructing judicial administration) and by such unlawful and criminal acts committed pursuant to conspiracy subject of this complaint they intentionally proximately caused the plaintiff injury and damage as herein alleged.

(b) Pursuant to the conspiracy subject of this complaint, at 10:26 A.M., **July 9, 1986, coconspirators Turner and Kobbervig** illegally fraudulently filed a copy of the aforementioned bogus petition and a false fraudulent "Notice of filing of petition for removal" in the Circuit Court of Oregon for Malheur County, in Vale, Oregon, copy of notice and cover letter appended hereto as **EXHIBIT C**. With the intent pursuant to conspiracy to provide pretext for all defendants herein and their coconspirators to unlawfully act in the federal court to damage the plaintiff, **they falsely and fraudulently stated and claimed in writing** that "Defendant, United States of America filed ...a Petition for Removal ... ." Coconspirators Turner and Kobbervig at all times pertinent knew that the foregoing statement was false and that the truth was that the United States of America was not a defendant, and that the

United States of America did not file a petition for removal. At all times pertinent herein the **defendants and all their coconspirators named herein knew that a suit against an officer of the United States is not a suit against the United States** and that many courts have held that including the U.S. Supreme court in Philadelphia Company v. Stimson, 223 U.S. 605 (1911). The truth is, Turner and Kobbervig themselves, not claiming to represent any defendant, unlawfully filed the bogus fraudulent petition for removal which is clear on the face of the so-called "petition." Turner and Kobbervig knowingly made the foregoing false statements in writing to Judge Yraguen, a public servant, in connection with an application for a benefit in **violation of ORS 162.085, (Unsworn falsification)** and as a proximate result of that criminal act committed pursuant to

conspiracy subject of this complaint the plaintiff was injured and damaged as herein alleged. Turner and Kobbervig by their aforementioned acts committed pursuant to conspiracy intentionally obstructed, impaired, and hindered the administration of law and judicial function by means of economic interference and obstacle in **violation of ORS 162.235 (Obstructing governmental or judicial administration)** and as a proximate result of those criminal acts committed pursuant to conspiracy subject of this complaint, the plaintiff was proximately damaged as herein alleged.

11.

The aforementioned illegal and **fraudulent acts of Turner and Kobbervig** committed as coconspirators of defendants pursuant to the conspiracy subject of this complaint and which **all defendants herein ratified** and for which they are liable were false

representations of matters of fact which were intended to provide coconspirator Judge F.J. Yraguen pretext for not legally acting in the lawsuit of EXHIBIT A. At all times pertinent coconspirator Yraguen was Judge of the Circuit Court of the State of Oregon for the County of Malheur and who at all times pertinent herein had legal jurisdiction of the lawsuit of which EXHIBIT A is the Amended Complaint. Pursuant to conspiracy, at all times after July 9, 1986, and on November 18, 1986, coconspirator Judge Yraguen refused and continued to refuse to decide pending motions before him or to proceed in any other legal way with the lawsuit of which EXHIBIT A is the Amended Complaint.

12.

Pursuant to conspiracy, letters were written on or about November 19, 1986, by **Defendant Kenneth E. Roberts** and on or about November 24, 1986, by coconspirator

Thomas K. Elden to the Hon. Frank J. Yraguen and received by him in Vale, Malheur County, Oregon, each falsely and fraudulently stating that the case of EXHIBIT A had been removed to the federal court. Defendant Kenneth E. Roberts and coconspirator Elden knew their statements were false when they wrote them and they wrote them pursuant to conspiracy with the intent to provide pretext for Judge Yraguen to not legally act according to his legal duty in the lawsuit of EXHIBIT A, and with the intent to thereby obstruct justice and injure and damage the plaintiff. As a proximate result Judge Yraguen refused to decide pending motions before him or to proceed in any other legal way with the lawsuit of which EXHIBIT A is the Amended Complaint. Defendant Kenneth E. Roberts and coconspirator Elden by their aforementioned acts committed pursuant to

conspiracy intentionally obstructed, impaired, and hindered the administration of law and judicial function by means of economic interference and obstacle in **violation of ORS 162.235**, and as a proximate result of those criminal acts committed pursuant to conspiracy subject of this complaint, the plaintiff was proximately injured and damaged as herein alleged.

13.

Pursuant to conspiracy subject of this complaint, the aforementioned **bogus petition and filing of it** in the federal court and copy of it in the state court **by Turner and Kobbervig did not even provide color of conforming to mandatory requirements of 28 USC s.1446**, copy appended hereto as **EXHIBIT D**. At all times herein all defendants and each of them and coconspirators Turner, Kobbervig, Elden, Yraguen, and Redden knew that the

requirements of the removal statutes are jurisdictional; and they knew that the removal statute must be strictly construed in favor of state court jurisdiction. At all times herein defendants and each of them and coconspirators Turner, Kobbervig, Elden, Yraguen, and Redden knew that 28 U.S.C. s.1446 states "Procedure for removal

(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States ... a verified petition ...statement of facts entitling ...to removal together with a copy of all process, pleadings and orders served upon him ...

(d) Each petition for removal of a civil action or proceeding, except a petition in behalf of the United States, shall be accompanied by a bond ... defendants will pay all costs ... not removable or was

improperly removed.

(e) Promptly after the filing of such petition for the removal of a civil action and bond **the defendant** or defendants shall give written notice thereof to all adverse parties and **shall file a copy of the petition with the clerk of such State court, which shall effect the removal** and the State court shall proceed no further unless and until the case is remanded." (emphasis added)

None of those mandatory, jurisdictional requirements were complied with and none were waived by the plaintiff who insisted upon their compliance by motion to remand to the state court. Pursuant to conspiracy:

(a) the bogus so-called petition was **not filed by a defendant**, which all defendants herein and named coconspirators knew was a **jurisdictional requirement** and pronounced to be so by the U.S. Supreme Court in

Ayers v. Watson, 113 U.S. 594, 5 S.Ct. 641, 28 L.Ed. 1093 (1885) and is established law cited in 76 C.J.S. p. 1056; and defendants herein and named coconspirators at all times pertinent knew that **a non-party could not remove** ;

(b) it was not verified by a defendant (sworn to by an affidavit);

(c) it did not contain required contents; (Defendants and named coconspirators knew at all times pertinent that a federal officer must set forth all the circumstances and positively explain his relation to the matter and showing that it was confined to his acts as an officer as decided by the U.S. Supreme Court in Maryland v. Soper (No.1), 270 U.S. 9 (1926); (d) it was not accompanied by a bond; (Defendants and named coconspirators knew at all times pertinent that the requirement was **mandatory** even if the petition was filed by the U.S.

Attorney as pronounced in Nelson v. Peter Kiewit Sons' Co., 130 F.Supp 59, 1955, DC NJ.); and

(e) the copy of the petition for removal was not filed with the clerk of the state court by a defendant to effect a removal. Pursuant to conspiracy, defendants and named coconspirators extremely outrageously flaunted their total, unlimited, arbitrary power to totally disregard the mandatory requirements of the removal statutes to intimidate and injure the plaintiff including causing him to suffer severe emotional distress. On the face of the record, the lawsuit of EXHIBIT A was not removed to the federal court and the federal court at all times pertinent herein did not have jurisdiction and at all times pertinent herein each and all of the defendants and coconspirators named herein knew that.

14.

On July 15, 1986, the Plaintiff rightfully and properly submitted by certified mail to the United States District Court for the District of Oregon a motion to remand the case to the state court. Pursuant to conspiracy, all defendants herein and named coconspirators acted deceitfully and illegally as if jurisdiction of the lawsuit of EXHIBIT A was in the federal court which they knew was false.

15.

Pursuant to the total conspiracy subject of this complaint, coconspirator **Hon. James A. Redden**, judge of the U.S. District Court for the District of Oregon, who knew at all times pertinent herein that he lacked jurisdiction, on July 16, 1986, and at all times thereafter pertinent herein, knowingly unlawfully refused and continued to refuse to remand the case of EXHIBIT A to the state court.

Pursuant to conspiracy, on September 2, 1986, he unlawfully denied the plaintiff's motion to remand and then retracted it the same day. Pursuant to conspiracy, on October 16, 1986, after three months' delay, he again **knowingly unlawfully denied plaintiff's motion to remand,** fraudulently holding that Judge Finesilver properly removed the case to the federal court which was false and at all times pertinent herein Judge Redden knew that it was false. On the face of the petition, Finesilver did not remove the case himself or by anyone claiming to represent him, the petition was not verified by Finesilver, no bond accompanied the petition, and Finesilver did not file a copy of the petition with the clerk of the state court which was necessary to effect the removal. Pursuant to conspiracy, by the aforementioned acts Judge Redden intentionally obstructed, impaired, and

hindered the administration of law and judicial function by means of economic interference and obstacle in **violation of ORS 162.235** (Obstructing governmental or judicial administration), and as a proximate result of his unlawful and criminal acts committed pursuant to conspiracy subject of this complaint the plaintiff was injured and damaged as herein alleged.

16.

Pursuant to conspiracy subject of this complaint, no defendant herein or named coconspirator at any time took any appropriate action or made any motions to move either the complaint or the amended complaint of the case of EXHIBIT A from the state court to the federal court in accord with **28 USC ss. 1447 and 1449**, copies appended hereto as **EXHIBIT E**. Even if the case had been properly removed, which it was not, without the original or

rertified copy of the AMENDED COMPLAINT, Redden had no color of jurisdiction **for that reason as well as for the reason that the claimed removal was false and fraudulent when he fraudulently unlawfully denied the plaintiff's motion to remand on September 2, 1986, and on October 16, 1986.** Redden was notified that the bogus petition was filed on **July 9, 1986**, in the state court by mail to him on July 11, 1986, August 4, 1986, and August 7, 1986. He was notified that the amended complaint was filed **July 7, 1986**, in the state court by mail to him on July 11, 1986, August 4, 1986, and on August 13, 1986, when, by way of notice and continuing to contest jurisdiction of the federal court, the plaintiff mailed to Redden copies of the amended complaint seeking relief in the state court with the date it was filed and other documents filed in the state court including Hartford's motion to dismiss.

At no time died the plaintiff submit a motion to amend the complaint in the federal court pursuant to Rule 15, F.R.C.P. At all times pertinent all defendants and coconspirators named herein named knew that **without original or certified copies of pleadings, a court has no jurisdiction to decide the issues of the pleadings**, a complete lack of subject matter jurisdiction. (71 C.J.S. p.17). Pursuant to conspiracy, **the origin of the "complaint" that was filed with the bogus non-verified petition for removal was not revealed and was not even claimed to be a photocopy of the original complaint or even of a copy served upon a defendant.** At all times pertinent herein, all defendants and coconspirators Turner, Kobbervig, Elden, Yraguen and Redden knew that the "complaint" filed by Turner and Kobbervig in the federal court was not even verified by affidavit to be a copy of

the original filed with the clerk of the state court or even a copy of a copy served upon a defendant. Pursuant to conspiracy that dubious document having no legal significance is the so-called "complaint," to which motions by defendants were fraudulently directed in the federal court and upon which Judge Redden pursuant to conspiracy fraudulently based his illegal fraudulent decisions, opinions, dismissal of the lawsuit subject of EXHIBIT A, and his outrageous illegal order to the plaintiff to pay Hartford's attorney fees and costs.

17.

Acting pursuant to the conspiracy subject of this complaint, on or about August 4, 1986, Defendant Craig, a lawyer practicing in Oregon, in fraud knowing the court lacked jurisdiction, submitted to the U.S. District Court for the District of Oregon, in Portland, Oregon, in the lawsuit of

EXHIBIT A a false, fraudulent affidavit claiming that her employment by the Colorado Court of Appeals ended prior to June, 1978. After the plaintiff submitted documents that proved that to be false, Craig submitted another affidavit to the same court on or about August 21, 1986, signed August 19, 1986, affirming that she was employed by the court in May, 1979. In that affidavit, dated August 19, 1986, pursuant to the total conspiracy subject of this complaint, Craig with the intent to provide coconspirator Redden color of a pretext to dismiss the lawsuit of EXHIBIT A declared under oath, "I have not had any contact with plaintiff Donald E. Tyler or **his legal affairs** at anytime since that date." (emphasis added). That declaration was false and fraudulent and Craig knew it was false when she swore to it and when she submitted it to the court. She wrote a letter from Oregon dated Nov.

29, 1982, addressed to the clerk of the Colorado Court of Appeals concerning the destruction of depositions and trial exhibits subject of EXHIBIT A, copy of which letter was sent contemporaneously to the plaintiff by the clerk. That letter most certainly constituted "contact with legal affairs of Donald E. Tyler," plaintiff herein. The letter was connected to obstruction of justice by cover-up of the deliberate illegal theft and destruction of those depositions and exhibits. Craig's false affidavit was submitted to support false fraudulent claims that the lawsuit of EXHIBIT A was barred by statutes of limitation. Craig's affidavit, a sworn statement in regard to a material issue, was made by Craig knowing it to be false, clearly **a violation of ORS 162.065 (Perjury, a Class C felony).** Pursuant to conspiracy subject of this complaint by the aforementioned

acts Craig intentionally obstructed, impaired, and hindered the administration of law and judicial function by economic interference and obstacle in **violation of ORS 162.235** (Obstructing governmental or judicial administration), and as a proximate result of the foregoing unlawful and criminal act committed pursuant to conspiracy subject of this complaint Craig injured and damaged the plaintiff as herein alleged.

18.

At all times and places pertinent herein **Defendant Frederic P. Roehr was acting as an agent of Defendant Vergeer, Roehr & Sweek** which is responsible and liable for his acts alleged herein and subject of this complaint.

19.

Pursuant to the conspiracy subject of this complaint, the aforementioned false fraudulent affidavit by Craig signed

August 19, 1986, was submitted to the U.S. District Court for the District of Oregon on or about August 21, 1986, by Craig and by **Defendant Frederic P. Roehr** who both knew that it was false and fraudulent and both of them knew at all times pertinent herein that the aforementioned federal court lacked jurisdiction of the case of EXHIBIT A. With the intent that conduct constituting a crime punishable as a felony be performed, **Roehr agreed with Craig** to engage in or cause the performance of such conduct in **violation of ORS 161.450, (Conspiracy).** Their acts committed pursuant to conspiracy including the total conspiracy subject of this complaint proximately damaged the plaintiff as herein alleged. Roehr and Craig pursuant to conspiracy intentionally obstructed, impaired, and hindered administration of law and judicial function by means of economic interference

and obstacle in violation of ORS 162.235, which proximately caused injury and damage to the plaintiff as herein alleged.

20.

On or about July 24, 1986, Defendant Kenneth E. Roberts pursuant to conspiracy with Defendant Thomas L. Roberts and pursuant to the total conspiracy subject of this complaint submitted to the U.S. District Court for the District of Oregon in Portland, Oregon, in the case subject of EXHIBIT A, in fraud knowing that the court lacked subject matter jurisdiction, a "Memorandum of law in support of Motion of Thomas L. Roberts to dismiss." With the intent to provide coconspirator Judge Redden color of pretext to fraudulently dismiss the lawsuit of EXHIBIT A, in that memorandum they falsely misrepresented and misquoted a case, knowing that their quotation was falsified, to provide some color to a claim opposite established

legal precedence on a material issue. At all times pertinent herein, all defendants and named coconspirators herein knew that the law is well established by legal precedence that a conspirator acts as an agent of all coconspirators, and that the act of a conspirator in a state provided basis for personal jurisdiction of courts in that state of all coconspirators whether or not they personally have been in the state. Pursuant to conspiracy, in the lawsuit of which EXHIBIT A is the amended complaint, Craig and other coconspirators acted in Oregon, and coconspirators including defendant Thomas L. Roberts acting in Colorado fraudulently claimed lack of personal jurisdiction in Oregon courts based upon their not actually being in Oregon. Pursuant to conspiracy, Defendants Thomas L. Roberts and Kenneth E. Roberts, both lawyers, falsely and fraudulently misrepresented

and misquoted First Interstate Bank v. Tex-Ark Farms, 71 Or App 427, 692 P.2d 678 (1984) as holding:

"Jurisdiction of the partnerships is not based on their agent's acts in Oregon. ..." (emphasis added)

Pursuant to conspiracy, defendants Kenneth Roberts and Thomas Roberts fraudulently added the word "not" to the quotation of the opinion to falsely represent the holding of the case as having the exact opposite meaning of the true holding. (at 692 P.2d 686). Defendants Kenneth E. Roberts and Thomas L. Roberts knowingly made the aforementioned false written statement to a public servant, Judge Redden, in connection with an application for a benefit in violation of ORS 162.085 (Unsworn falsification), and as a proximate result of that unlawful and criminal act the plaintiff was

intentionally injured and damaged as herein alleged. By their aforementioned act committed pursuant to conspiracy subject of this complaint Defendants Kenneth E. Roberts and Thomas L. Roberts intentionally obstructed, impaired, and hindered the administration of law and judicial function by means of economic interference or obstacle in violation of ORS 162.235 (Obstructing governmental or judicial administration, a Class A misdemeanor), and as a proximate result of that unlawful and criminal act the plaintiff was damaged herein as alleged. With the intent that conduct constituting a crime punishable as a Class A misdemeanor, ORS 162.235, be performed, Defendants Kenneth E. Roberts and Thomas L. Roberts agreed with each other to engage in or cause the performance of such conduct in violation of ORS 161.450 (Conspiracy).

22.

At all times and places herein Defendant James C. Carter was acting as an agent of Defendant Holmes, DeFrancq & Schulte, P.C. which is responsible and liable for his acts alleged herein and subject of this complaint.

23.

Pursuant to the conspiracy subject of this complaint, on or about August 4, 1986, Defendants Donald P. Smith, Jr., an attorney and judge of the Colorado Court of Appeals but not acting in that capacity, and Edwin G. Ruland, an attorney and former judge of the Colorado Court of Appeals not acting in that capacity, pursuant to conspiracy and acting through their attorney submitted in the case of EXHIBIT A to the U.S. District Court of the District of Oregon, in Portland, Oregon, in fraud knowing that the court lacked subject matter jurisdiction, in the

case of EXHIBIT A affidavits **each deceitfully declaring** under oath, "At no time during the relevant periods alleged in the complaint did I travel to the state of Oregon **or engage in activities in the state of Oregon which in any way related to plaintiff or the acts alleged in the complaint."** (emphasis added to fraudulent part) The aforementioned fraudulent statement was made by each of defendants Smith and Ruland pursuant to the conspiracy subject of this complaint to provide coconspirator Defendant Redden pretext to fraudulently dismiss the lawsuit of EXHIBIT A. Pursuant to conspiracy, coconspirator Judge Redden used those fraudulent statements as pretext to dismiss the case. The statements of Defendants Smith and Ruland were false implication and deceit in that **defendant Debbie Freepons Craig acted as their agent in Oregon**, and they are

clearly responsible for and liable for her acts committed in Oregon. They planned and directed Craig's activities in Oregon, subject of the amended complaint of EXHIBIT A, and they were mailed by certified mail received by them on May 3, and May 2, 1979, respectively, copy of the arrangements by the Colorado Court of Appeals for her trip to Ontario, Oregon, April 9, 1979, to copy depositions and other details. After receiving that notice by certified mail, they fraudulently and illegally accepted as part of the record on appeal the legally useless copies of depositions made by Craig on that trip to Oregon, knowing they would be legally useless to the plaintiff at trial, to obstruct justice subject of the total conspiracy, ratifying her acts as their own. Pursuant to the conspiracy subject of this complaint Defendant James C. Carter as agent for Smith and Ruland,

and representing them as their attorney, submitted the foregoing deceitful affidavits of Smith and Ruland on or about August 4, 1986, to the U.S. District Court in the case of EXHIBIT A knowing that they were deceitful and knowing that the court lacked jurisdiction of the subject matter of the lawsuit of EXHIBIT A. Pursuant to conspiracy, the aforementioned deceitful affidavits were submitted to obtain benefit from coconspirator Judge Redden of dismissal of the lawsuit of EXHIBIT A and specifically related to the fraudulent claims of judicial immunity when defendants Smith, Ruland, and Carter knew that **Smith and Ruland had no immunity for acts committed in the State of Oregon by their agent and where as judges they had no jurisdiction whatsoever.** At all times pertinent defendants Smith, Ruland, and Carter knew that the Colorado Court of Appeals held

that immunity for acts by state government employees stopped at the Colorado border as held by the Colorado court in Peterson v. State of Texas, __Colo.App._, 635 P2d 241 (1981) and by the U.S. Supreme Court in Nevada v. Hall, 440 U.S. 410, 99 S.Ct. 1182 (1979). **Smith, Ruland, and Carter** intentionally obstructed, impaired, and hindered the administration of law and judicial function in **violation of ORS 162.235**, and as a proximate result of their unlawful and criminal acts committed pursuant to conspiracy the plaintiff has been injured and damaged as herein alleged. Pursuant to conspiracy the affidavits were insufficient to address the issue of the judges joining a conspiracy, an allegation that must be accepted as true. All of the defendants and coconspirator Redden knew at all times pertinent that **the joining and participating in a conspiracy is not a**

judicial act and immunity does not apply as held in the Ninth Circuit Court of Appeals, supervisor of the U.S. District Court for the District of Oregon, in Rankin v. Howard, 633 F.2d. 844 (9th Cir, 1980).

24.

At all times pertinent herein defendants Anthony Yturri, Carl Burnham, Jr., Cliff S. Bentz, and Teresa J. Hutchens were acting as agents of Yturri, Rose, Burnham, Ebert & Bentz and as agents for Hartford Insurance Group which are responsible and liable for their acts and each of them. Supervising employees of Hartford joined and acted pursuant to conspiracy in Hartford's behalf and for Hartford's benefit and those acts were ratified by Hartford who is responsible and liable for all acts committed pursuant to the conspiracy.

On July 9, 1986, pursuant to conspiracy between defendants Hartford Insurance Group, Hutchens, and Burnham, and pursuant to the total conspiracy subject of this complaint, **defendants Hutchens, Burnham, and Hartford** submitted to the Circuit Court for the State of Oregon for the County of Malheur in the case of EXHIBIT A false and fraudulent statements in Hartford's "Motion to quash service and dismiss plaintiff's amended complaint," knowing they were false and fraudulent. False and fraudulent statements knowingly submitted included the statement that "Plaintiff's professional conduct as a physician was questioned and reviewed by a hospital review committee at Brighton Community Hospital in Brighton, Colorado, the Colorado Medical Society and Plaintiff's malpractice insurance carrier in Colorado, HARTFORD INSURANCE."

Continuing in the same document, they falsely and fraudulently stated, "Plaintiff's refusal to cooperate with these reviews resulted in the cancellation of his liability insurance." Those statements, material to issues subject of the lawsuit of EXHIBIT A, were and are totally false, and aforementioned defendants knew they were false when they submitted them to Judge Yraguen. Continuing knowing it was false they wrote the false fraudulent statement, "disbarment proceedings were initiated against the plaintiff." Pursuant to conspiracy **this and other repeated extremely outrageous false libelous statements about the plaintiff concerning his professions and other extremely outrageous conduct and acts were made intentionally and maliciously by Hartford and other defendants herein and by coconspirator attorneys and judges to**

intimidate the plaintiff with their unlimited power to damage him with impunity and with the intention of causing the plaintiff to suffer severe emotional distress. Defendants Hartford, Hutchens, and Burnham knowingly made the aforementioned false written statements to Judge Yraguen, a public servant, in connection with an application for a benefit in violation of ORS 162.075 (Unsworn falsification), and as a proximate result of that illegal and criminal act the plaintiff has been proximately injured and damaged as herein alleged. Defendants Hartford, Hutchens, and Burnham, by their aforementioned acts intentionally obstructed, impaired, and hindered the administration of law and judicial function in violation of ORS 162.235, and as a proximate result of those unlawful and criminal acts committed pursuant to conspiracy, the plaintiff was

injured and damaged as herein alleged.

26.

In the same document as mentioned in the paragraph preceding this, pursuant to conspiracy subject of this complaint, **Hartford, Hutchens, and Burnham** wrote, "HARTFORD INSURANCE GROUP has an authorized registered agent in Oregon. The name and address of HARTFORD INSURANCE GROUP'S registered agent is readily available through the Office of the Corporation Commissioner." That statement was false and fraudulent and defendants knew it was false and deceitful when they submitted it to the Circuit Court for the State of Oregon for the County of Malheur in the case of **EXHIBIT A** on or about July 9, 1986. The statement was false in the Hartford Insurance Group did not at times pertinent herein have a registered agent in Oregon. The statement was deceitful in that the real relevant issue is whether or

not Hartford Insurance Group had such an agent in Malheur County, which it did not. At all times pertinent, aforementioned defendants knew that Rule 7,D. **Manner of service**, (3)(b)(ii), Oregon Rules of Civil Procedure, provides, "If a registered agent, officer, director, general partner, or managing agent **cannot be found in the county** where the action is filed, the summons may be served: by substituted service upon such registered agent, officer, director, general partner, or managing agent; or **by personal service on any clerk or agent** of the corporation or limited partnership **who may be found in the county** where the action is filed;..." (emphasis added). The aforementioned fraudulent statement by defendants Hartford, Hutchens, and Burnham was made to deceive and provide color for the false fraudulent claim that Hartford was not properly served a summons and complaint

and that as a consequence the court lacked personal jurisdiction of Hartford.

27.

Pursuant to conspiracy, on or about July 9, 1986, **defendants Hutchens, Burnham, and Hartford** submitted to the Circuit Court of Oregon for the County of Malheur a fraudulent affidavit by Michael Miller in support of Hartford's motion to quash service. Service upon Hartford was by service upon Miller at his Hartford Insurance Agency in Ontario, Malheur County, Oregon. Miller admitted he was a sales agent for Hartford, but further stated, "I am not authorized and do not represent Hartford Insurance in any other manner, and further am not authorized to accept service on behalf of the Hartford Insurance Group." The defendants aforementioned knew at all times pertinent that service upon a foreign corporation can be obtained by serving an agent doing

business for it in the county in which suit is brought if there is no specially authorized agent within the county. Pursuant to conspiracy at no time has Hartford or its attorneys claimed that an agent authorized to accept service of summons was present in Malheur County. The fraudulent sworn statement was made and submitted to the court by defendants aforementioned knowing it was deceitful to provide color for the fraudulent claim that Hartford was not properly served a summons and complaint and that the court lacked personal jurisdiction of Hartford for that reason.

28.

Pursuant to conspiracy, on July 11, 1986, Defendants Hartford, Burnham, and Bentz, knowing that the U.S. District Court for the District of Oregon in Portland, Oregon, lacked any jurisdiction, fraudulently submitted to that court and

Judge Redden a "Motion for extension of time to appear." Pursuant to conspiracy, in that written motion they made the fraudulent statement, "The United States Attorney has filed a Petition for Removal, apparently pursuant to 28 USC s 1442, **on behalf of all Federal Defendants."** (emphasis added). The same statement was repeated in writing by the same defendants to the same court on August 4, 1986, in "Defendant's Hartford Insurance's Motion for Extension of Time to Appear." Defendants Hartford, Burnham, and Bentz knew at all times pertinent herein that the claimed removal was ineffective and fraudulent. All defendants and named coconspirators knew at all times pertinent herein that a party can act personally or "by and through" an attorney but that there is no allowance or provision in the federal rules for anyone not a party to petition for removal "on behalf of" any

defendant.

29.

Pursuant to conspiracy, **Defendants Hartford, Burnham, and Bentz** in seeking benefit for Hartford from Judge Redden, a public employee, in support of motions by Hartford, repeatedly knowingly made and submitted in writing to the U.S. District Court for the District of Oregon on or about July 11, 1986, on or about July 31, 1986, and on or about August 4, 1986, the false and fraudulent written statement that the plaintiff sued members of the Colorado Board of Medical Examiners. The aforementioned defendants knew the statement was false when they wrote it and when they submitted it at each of the aforementioned times, and as a proximate result of those unlawful acts committed pursuant to conspiracy they injured and damaged the plaintiff as herein alleged.

Pursuant to conspiracy with each other and pursuant to the total conspiracy subject of this complaint, **Defendants Hartford, Burnham, and Bentz,** in fraud knowing that the court lacked subject matter jurisdiction, "In support of defendant Hartford Insurance's motion to dismiss, strike and make more definite certain," submitted to the U.S. District Court for the District of Oregon and Judge Redden on or about August 4, 1986, false affidavits from employees or former employees of Hartford, W.R. Gregg and F.A. Fry. Fry declared "that all of the transactions and activities of Hartford Insurance Dr. Tyler alleges took place between 1971 and May, 1979 took place in Colorado and had consequences only in the State of Colorado." Gregg declared "that all of the transactions and activities of Hartford Insurance Dr. Tyler alleges took

place between May, 1979 and June 1, 1983 took place in Colorado and had consequences only in the State of Colorado." Those affidavits were false and fraudulent, and were made and submitted knowing they were false because the plaintiff was living in Oregon when Hartford breached its insurance contract with the plaintiff and the outrageous conduct of Hartford and its coconspirators was designed to and did inflict injury upon the plaintiff in Oregon during the referred to periods of times. Those were consequences in Oregon. Pursuant to conspiracy, they were also deceitful in that the amended complaint, EXHIBIT A, clearly alleges acts committed in the State of Oregon by coconspirators acting in Oregon. The aforementioned false fraudulent affidavits were made to provide pretext for coconspirator Judge Redden acting pursuant to conspiracy to claim

that there was no personal jurisdiction of Hartford in conflict with **Oregon Rules of Civil Procedure Rule 4, C.,D., and I.(2)**. Pursuant to conspiracy, all defendants herein flaunted their illegal power to intimidate the plaintiff by total disregard of legal precedence and rules of civil procedure, including Rule 4. At all times herein all defendants and coconspirators Turner, Kobbervig, and Redden knew that **Rule 4, ORCP**, in pertinent parts follows:

"**Personal jurisdiction.** A court of this state having jurisdiction of the subject matter has jurisdiction over a party served in an action pursuant to Rule 7 under any of the following circumstances:

C. Local act or omission. In any action claiming injury to person or property within or without this state arising out of an act or omission within

this state by the defendant.

D. Local injury; foreign act. In any action claiming injury to person or property within this state arising out of an act or omission outside this state by the defendant, provided in addition that at the time of the injury, either:

D.(1) Solicitation or service activities were carried on within this state by or on behalf of the defendant; or ...

I. Insurance or insurers. In any action which arises out of a promise made anywhere to the plaintiff or some third party by the defendant to insure any person, property, or risk and in addition either: ... or

I.(2) The person, property, or risk insured was located within this state when the event out of which the cause of action is claimed to arise occurred; ..."

Pursuant to conspiracy, knowing that the federal court lacked jurisdiction, on or about July 31, 1986, **defendants Hartford, and Burnham** fraudulently submitted to the U.S. District Court for the District of Oregon in the case of EXHIBIT A a "Memorandum in support of defendant Hartford Insurance's motion against plaintiff's amended complaint" in which they made the false fraudulent written statement, "Plaintiff's professional conduct as a physician was questioned and reviewed by a hospital review committee at Brighton Community Hospital in Brighton, Colorado, the Colorado Medical Society and plaintiff's malpractice insurance carrier in Colorado, HARTFORD." The statement is false in each part and in its entirety and was made repeatedly by the aforementioned defendants knowing it was false. In the same document they repeated the false

statement knowing it was false that the plaintiff's malpractice insurance was cancelled. Pursuant to conspiracy subject of this complaint those **false libelous statements** were made by the aforementioned defendants intentionally to insult and damage the plaintiff in abuse of privilege granted lawyers as officers of the court, and **to intimidate him** with their completely unchecked, unlimited power to intentionally maliciously injure and damage him. Those false and fraudulent statements made in writing by defendants Hartford and Burnham were made to a public servant, Judge Redden, in connection with an application to obtain the benefit of motions in **violation of ORS 162.085**, (Unsworn falsification). As a proximate result of the aforementioned unlawful and criminal acts committed by defendants Hartford and Burnham pursuant to conspiracy, the plaintiff was injured

and damaged as herein alleged. Defendants Hartford and Burnham by their aforementioned acts intentionally obstructed, impaired and hindered the administration of law and judicial function in violation of ORS 162.235, and as a proximate result of the foregoing unlawful and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

32.

Pursuant to conspiracy with each other and pursuant to the total conspiracy subject of this complaint, knowing that the federal court lacked jurisdiction, on or about August 11, 1986, in application for benefit of summary judgment, Charles H. Turner and Judith Kobbervig, without claiming to represent any defendant and without written order of the court permitting them to intercede as non-parties, submitted a memorandum to the

U.S. District Court for the District of Oregon in the case of EXHIBIT A. In referring to the case dismissed through fraud and collusion by federal judge Finesilver and judges of the U.S. Circuit Court of Appeals for the Tenth Circuit subject of the lawsuit of EXHIBIT A, the defendants falsely stated in writing knowing it was false, "The complaint ~~apparent~~ly arose out of the cancellation of Tyler's medical malpractice insurance." The Plaintiff Tyler's medical malpractice insurance was never cancelled. Knowing it was false, in the same document Turner and Kobbervig pursuant to conspiracy also repeated the false, fraudulent claim of the judges of the Circuit Court of Appeals, Defendants in EXHIBIT A, that Finesilver dismissed the case because Tyler did not obey an order to amend the complaint in that lawsuit. In truth, there was no order to amend the complaint.

Pursuant to conspiracy, in his order denying motion to alter or amend judgment, Finesilver made it clear that the dismissal was because the plaintiff refused to post a bond in the amount of $48,000.00 as ordered. Pursuant to conspiracy, Turner and Kobbervig made the aforementioned false written statements, knowing they were false, to a public servant, Judge Redden, in connection with an application for a benefit in **violation of ORS 162.085 (Unsworn falsification)**, and as a proximate result of their unlawful and criminal acts committed pursuant to conspiracy the plaintiff was intentionally injured and damaged as herein alleged. By the aforementioned acts committed pursuant to conspiracy Turner and Kobbervig intentionally obstructed, impaired and hindered the administration of law and judicial function in **violation of ORS 162.235**

(Obstructing governmental or judicial administration), and as a proximate result of their unlawful and criminal acts committed pursuant to conspiracy subject of this complaint the plaintiff was intentionally injured and damaged as herein alleged.

33.

Pursuant to conspiracy, on or about July 21, 1986, the same date Judge Redden ordered a "status conference," subject of following paragraphs, Defendant Carter, an attorney representing Colorado judges and Craig, defendants in EXHIBIT A, submitted to coconspirator Redden and the federal court, knowing it lacked jurisdiction, a "MOTION TO CONTINUE TIME TO RESPOND." In support Carter wrote, "Also, these defendants are uncertain as to the status of an amended complaint ..." (emphasis added).

The aforementioned motion to continue time to respond submitted by Defendant Carter in which he mentioned **uncertainty as to the status of the amended complaint was stamped as received** by the clerk of the U.S. District Court for the District of Oregon on **July 21, 1986**. At some time known to defendants and their coconspirators but unknown to the plaintiff, in the U.S. District Court in Portland, Oregon, pursuant to the conspiracy subject of this complaint, some coconspirator or coconspirators of defendants including coconspirator **Judge Redden fraudulently, falsely, and illegally caused the docket sheet to be changed and/or false entry made to provide false evidence that the aforementioned motion was not received until July 25, 1986.** The defendants herein are responsible for the injury and damages to

the plaintiff intentionally caused by the aforementioned extremely outrageous and criminal act committed pursuant to the conspiracy subject of this complaint and in violation of ORS 162.235.

35.

Coconspirator Judge Redden had notice of the amended complaint and the date the bogus petition was filed in the state court (July 9, 1986) in Hartford's "Motion for Extension of Time" submitted July 11, 1986, which Judge Redden granted on July 21, 1986. At the same time, and in the same document as the order granting Hartford time, Judge Redden ordered an "in person status conference" for September 2, 1986, copy appended hereto as EXHIBIT F.

36.

At some time between July 21, 1986, and September 2, 1986, at some place known to defendants but unknown to the plaintiff defendants Roehr, Carter, Burnham,

Hutchens, Bentz, and Hartford Insurance Group, ratified by defendant Anthony Yturri, conspired with each other and with coconspirators Thomas K. Elden and James A. Redden, not acting in his capacity as judge. In that conspiracy which was and is a part of the total conspiracy subject of this complaint the aforementioned defendants and coconspirators Elden and Judge Redden in effect agreed that they would fraudulently avoid determining the status of the "complaint" and "amended complaint," that all defendants deceitfully would direct motions and memoranda to the null and void "complaint," that they would deceitfully not amend any motions directed to the null and void "complaint," and that coconspirator Judge Redden fraudulently would use the null and void and non-certified copy of the "complaint" as pretext for his illegal fraudulent

decisions and opinions. It was further agreed between the aforementioned defendants, Elden, and Redden that the "in person status conference" scheduled for September 2, 1986, would not consider the issue of the "status of the amended complaint" and no pending motion would be considered or decided. It was further outrageously agreed in that conspiracy included in the total conspiracy subject of this complaint that the "in person status conference" scheduled for September 2, 1986, in Portland, Oregon, would be used fraudulently and unlawfully to insult, humiliate, and to intimidate the plaintiff, and to intentionally cause the plaintiff severe emotional distress by extreme outrageous conduct, to intentionally cause him mental suffering, and to unlawfully cause the plaintiff loss of time and money and other injury and damage.

Pursuant to the aforementioned conspiracy and the total conspiracy subject of this complaint, defendants Carter, Roehr, Burnham, Hutchens, Bentz, the firm of Yturri, Rose, et al., and coconspirator Elden **did not appear and their clients, defendants in EXHIBIT A, were not represented at that ordered conference** held in Portland, Oregon, September 2, 1986. Pursuant to conspiracy to intimidate the plaintiff and to obstruct justice by injury and damage to the plaintiff, Defendants Hartford, Burnham, Hutchens, Bentz, and Yturri, Rose, et. al., Carter, and Roehr and coconspirators Elden and Judge Redden, ratified by Anthony Yturri, intended to and did openly flagrantly display the illegal control of coconspirator Judge Redden by the defendants herein and defendants of EXHIBIT A through **secret out-of-court**

conspiracy by their nonappearance in the face of an order to appear. Pursuant to conspiracy the aforementioned defendants flagrantly flaunted their secret conspiratorial knowledge that nothing of substantive importance was to be done at the so-called "status conference." Pursuant to the total conspiracy subject of this complaint, nothing concerning the "status of the amended complaint" was said or done at the "status conference" September 2, 1986, and none of the pending motions of defendants were considered. Pursuant to the conspiracy subject of this complaint, the nonappearance of defendants aforementioned was flagrantly openly shown to be expected by coconspirator Hon. James A. Redden, judge, by his only casually commenting on such open disregard of his order by the several attorneys. Pursuant to conspiracy, the aforementioned conference September 2, 1986, was designed

to injure and damage the plaintiff by fraudulent use of legal proceedings and pursuant to the total conspiracy to obstruct justice subject of this complaint, and it proximately caused the plaintiff to travel from Ontario, Oregon, to Portland, Oregon, and return, a one-way distance of 375 miles and to attend and participate in extremely outrageous fraudulent legal proceedings, and it proximately caused him severe emotional distress, mental suffering, loss of time and money, and other damage alleged herein. Pursuant to the conspiracy subject of this complaint, Defendants Carter, Roehr, Burnham, Hutchens, Bentz, Anthony Yturri, Yturri, Rose, et al., Hartford, and coconspirator Elden and coconspirator Judge Redden by their aforementioned acts intentionally obstructed, impaired, and hindered the administration of law and judicial

function by means of intimidation and economic interference and obstacle in violation of ORS 162.235, a Class A misdemeanor, and as a proximate result of their unlawful and criminal acts the plaintiff was intentionally injured and damaged as herein alleged. With the intent that conduct constituting a crime punishable as a Class A misdemeanor be performed the aforementioned defendants agreed with each other to engage in or cause the performance of such conduct in violation of ORS 161.450 (Conspiracy), and acts committed pursuant to that conspiracy proximately injured and damaged the plaintiff as herein alleged.

38.

On September 2, 1986, the plaintiff requested from court reporter Jerry C. Harris a transcript of the aforementioned so-called "status conference." Pursuant to conspiracy with defendants herein and

the Hon. James A. Redden, acting outside his duties as judge, and pursuant to the total conspiracy subject of this complaint, Harris falsified the transcript, which he mailed to the plaintiff on or about September 5, 1986. That falsification included the omission of a **statement by Richard Kuhn**, substituting for attorney Kenneth Roberts as attorney for defendant Thomas Roberts, **that he expected more persons to be there.** Copy of the first transcript submitted to the plaintiff is appended hereto as **EXHIBIT G**, and copy of page 2 of EXHIBIT G with lines 6 and 7 as corrected by coconspirator Harris following request by plaintiff is appended hereto as **EXHIBIT H.** Pursuant to the conspiracy subject of this complaint, **Harris changed the true transcript** to fraudulently conceal the conspiracy subject of the preceding paragraph and to obstruct justice. That

extremely outrageous fraudulent falsification of a recording of a court proceeding designed to cause the plaintiff extreme emotional distress and other damage pursuant to conspiracy proximately caused the plaintiff loss of time and money including but not limited to a long distance telephone call and postage and certification for a confirming letter and proximately caused the plaintiff mental suffering and severe emotional distress and other damage as herein alleged. Pursuant to the total conspiracy subject of this complaint, Harris without lawful authority knowingly concealed and made a false entry in a public record in violation of ORS 162.305, and as a proximate result of that act committed pursuant to conspiracy the plaintiff was intentionally injured and damaged as herein alleged. Pursuant to conspiracy, Harris intentionally obstructed, impaired

and hindered the administration of law and judicial function by means of intimidation, economic interference, and obstacle in **violation of ORS 162.235**, and as a proximate result of the aforementioned unlawful and criminal act committed pursuant to conspiracy the plaintiff was intentionally injured and damaged as herein alleged.

39.

Pursuant to conspiracy subject of this complaint, on September 8, 1986, **coconspirator Judge Redden** wrote a letter to coconspirator Kobbervig with copies to "all parties," deceitfully and falsely to provide appearance of ignorance of the conspiracy as it related to the amended complaint. **Deceitfully**, without mentioning the fraudulent bogus "status conference" held September 2, 1986, he wrote, "... Setting aside, for the moment, the question of whether or not a

removal is in order, I do wish to be advised as to the then status of the case. ..." (emphasis added) The "Government's Response to the Court's September 8, 1986 Letter" submitted by coconspirator Kobbervig on September 18, 1986, pursuant to conspiracy subject of this complaint fraudulently and deceitfully did not mention the amended complaint and deceitfully did not state the date the bogus petition for removal was filed in the state court. The truth is, if Redden had really wanted to know the status of the case he would have caused the documents filed in the state court to be removed to the federal court pursuant to 28 USC s.1447.

40.

On or about October 8, 1986, pursuant to conspiracy between defendants Hartford, Yturri, Rose, et al., Burnham, and Hutchens, ratified by Anthony Yturri, and

pursuant to the overall total conspiracy subject of this complaint, under color and pretext of Federal Rule of Civil Procedure 11 fraudulently submitted to the U.S. District Court for the District of Oregon, in Portland, Oregon, knowing that the court lacked jurisdiction, in writing "MOTION OF DEFENDANT HARTFORD INSURANCE FOR ATTORNEY FEES AND COSTS PURSUANT TO FRCP 11," a motion for sanctions against the plaintiff including order that the plaintiff pay Hartford's attorney fees and costs, copy appended hereto as EXHIBIT I. The motion did not address itself to claim any inappropriateness of any pleading, motion or other paper signed or filed in the federal court by the plaintiff, but attacked "Plaintiff's complaints and motions before this court." (emphasis added) Deceitfully it did not confine itself to documents filed in the federal court by the plaintiff. At all times

pertinent all defendants herein and coconspirator Redden knew that Rule 7 (b)(1) of the Federal Rules of Civil Procedure required, "An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. ..." At all times herein, all defendants herein knew that the requirement of particularity was subject of many court decisions that ruled that the requirement of particularity is a real substantial requirement and not a matter of form. At all times pertinent, all defendants and Redden knew that the motions for attorney fees by Hartford did not conform to requirements of Rule 7, FRCP, as a motion, and that it should have been summarily denied if rule of law were followed, which pursuant to conspiracy it

was not. Submitted pursuant to conspiracy, the motion is fraudulent substantively as well as procedural and is without merit on its face. At all times pertinent defendants and coconspirators Turner, Kobbervig, and Redden knew that Rule 11, FRCP is as follows:

"Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The rule in equity that the averments of an answer under oath must be overcome by the testimony of two witnesses or of one witness sustained by corroborating

circumstances is abolished. The signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. If a pleading, motion, or other paper is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, shall impose upon the person

who signed it, a represented party, or both , an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee." The plaintiff sought no remedy in the federal court and the only motion the plaintiff submitted to the federal court was his MOTION TO REMAND. Accompanying the aforementioned motion for attorney fees was an 11 page memorandum with 51 pages of exhibits. Pursuant to conspiracy, the memorandum mentioned the amended complaint once and directed 8 fraudulent objections to the null and void "complaint." Pursuant to conspiracy, the motion was deceitfully directed to the null and void complaint that was filed by the plaintiff in the state court over which the federal court lacked

jurisdiction to apply its Federal Rule of Civil Procedure, Rule 11. A dubious copy, not an original signed document, was filed in the federal court by Turner and Kobbervig. Similarly, the amended complaint was filed in the state court, and an non-verified copy was submitted to the federal court as notice of such proper filing in the state court and as a source of facts. The court did not have an original signed copy of the amended complaint, the plaintiff at all times challenged the jurisdiction of the federal court, and the document, EXHIBIT A, clearly seeks relief in the state court. Its construction was not and is not subject to federal rules of civil procedure. The motion to award Hartford its attorney fees was fraudulent and oppressive in the extreme and was outrageous in the extreme. At all times herein, all defendants and named

coconspirators including Judge Redden knew that Rule 11 could not apply to the signing of documents directed to the state court or the filing of documents in the state court and which had been so ruled in at least one published U.S. court decision, Kendrick v. Zanides, 609 F.Supp. 1162 (1985, ND). Pursuant to conspiracy, the defendants aforementioned presented in their memorandum as support for their motion a copy of a transcript of fraudulent, abusive, oppressive ranting made pursuant to conspiracy by Judge **Finesilver,** defendant in the case of EXHIBIT A, including reference to his **fraudulent illegal refusal to follow** the clear established **Colorado law that provides that statutes of limitation do not start to run until the last act pursuant to a conspiracy is committed** regardless of included acts which could be barred by statutes of limitation if not

committed pursuant to a conspiracy as pronounced by the Colorado Supreme Court in Clark v. Machette, 92 Colo 365, 21 P.2d 182 (1933). At all times pertinent herein, defendants knew that Finesilver was a coconspirator and that his opinion which they presented was the proximate result of fraud and collusion. Pursuant to conspiracy, defendants Hartford, Burnham, Hutchens, Yturri, Rose, et al., and ratified by Anthony Yturri, fraudulently injected Finesilvér's fraudulent false rulings to provide coconspirator Judge Redden similar fraudulent pretext to dismiss the case based upon fraudulent misinterpretations of statutes of limitation, and to provide Redden with fraudulent false pretext to award Hartford attorney fees and costs. Pursuant to the total conspiracy, **the motion acted and acts as a form of extortion**: the plaintiff was threatened

to be punished if he submitted any documents or if he acted or acts in any manner to assert or protect his rights in state or federal courts. **It was an open threat that the Plaintiff would be penalized with huge attorney fees of defendants if he submitted any documents whatsoever to federal courts in the case of EXHIBIT A** or any other lawsuit related to the facts therein. At all times pertinent all defendants in this complaint and coconspirator Judge Redden knew that **the motion and its not being summarily denied violated rights of the plaintiff guaranteed by the U.S. Constitution including the 1st, 5th, 7th, and 14th Amendments.** In their memorandum accompanying the motion for attorney fees, defendants aforementioned pursuant to conspiracy wrote, "All of Plaintiff's allegations derive from a series of events in which Plaintiff's professional conduct

as a physician was questioned and reviewed, his staff privileges at the Brighton Community Hospital in Brighton, Colorado were revoked, and consequently his malpractice insurance was not renewed."~ Each and all of the parts of that sentence are false and defendants who submitted it knew they were false when submitted. Pursuant to conspiracy, defendants Hartford, Burnham, and Hutchens knowingly made false written statements to a public servant, Judge Redden, in connection with an application for a benefit in violation of ORS 162.085 (Unsworn falsification), and as a proximate result of such unlawful and criminal acts the plaintiff was injured and damaged as herein alleged. By their aforementioned acts defendants Hartford, Burnham, and Hutchens pursuant to conspiracy intentionally obstructed, impaired, and hindered the administration

of law and judicial function by means of intimidation, economic interference, and obstacle in violation of ORS 162.235 **(Obstructing governmental and judicial administration)**, and as a proximate result the plaintiff was injured and damaged as herein alleged.

41.

Pursuant to the conspiracy subject of this complaint, at the so-called "status conference" September 2, 1986, and again in his order denying motion to remand on October 16, 1986, when he had already decided he would dismiss the case, coconspirator Judge Redden openly encouraged the plaintiff to serve the defendants summonses and complaints who were not served before the case was fraudulently claimed to have been removed, and on September 2, 1986, he invited the plaintiff to respond to motions to dismiss extremely outrageously for purposes of

entrapment so that he could have some color of claim to jurisdiction, the plaintiff would lose more time and money, and the attorney fees of defendants with which to threaten the plaintiff and which he already planned to illegally award defendants could be even larger.

42.

Pursuant to conspiracy, on February 6, 1987, Judge Redden deceitfully indicated the need for repeat filing of the motion by Hartford for attorneys fees without stating a reason. Transcript of the ex parte hearing appended hereto as EXHIBIT J, page 6, line 24 to page 7, line 3. Pursuant to conspiracy the prior motion, EXHIBIT I, submitted before dismissal, was an obvious **illegal threat to prevent** and which prevented the plaintiff from **acting in the federal court** in the case subject of EXHIBIT A. At all times pertinent, defendants Hartford, Hutchens, Burnham,

and Yturri, Rose, et al., and Redden also knew that **the prior motion for attorney fees was clearly a general appearance by Hartford.** Redden and the defendants knew at all times pertinent that a general appearance **waives any claim to lack of personal jurisdiction** as pronounced by the Oregon Supreme Court in Anderson v. Guenther, 144 Or 446, 22 P2d 339 (1933). Pursuant to conspiracy a repeat of the motion was requested in preparation to fraudulently avoid and ignore the existence of the prior motion which not only prevented the plaintiff from responding to the fraudulent acts of defendants subject of this complaint, but was also a general appearance by Hartford.

43.

As a proximate result of the motion to award attorney fees submitted pursuant to conspiracy subject of this complaint to coconspirator Judge Redden who was acting

obviously without jurisdiction and who to the plaintiff was an obvious conspirator, the plaintiff acting as a reasonably prudent person submitted no more documents to the court, and made no appearance of any kind, as any document submitted or appearance was reasonably expected by the plaintiff to result in retaliatory exorbitant fees of defense attorneys ordered by dictatorial judicial fiat to be paid by the plaintiff or other illegal punishment. As a proximate result of the aforementioned motion for attorney fees and its not being summarily denied by coconspirator Redden, the plaintiff was illegally deprived of his rightful use of the U.S. Court for the District of Oregon, and he was illegally threatened to be punished and fined for his rightfully and legally filing a complaint in the Circuit Court of the State of Oregon for the County of Malheur. Pursuant to conspiracy

against the clients of Elden in EXHIBIT A were for malicious, willful, wanton, intentional acts. They were being sued in the lawsuit of EXHIBIT A for intentional acts subject to statutes of limitation concerning **acts committed pursuant to conspiracy and accumulated acts that produced one indivisible unapportionable injury to the plaintiff.** Cited acts committed by Elden's clients were committed on or about May 2, 1986. (paragraphs 53 and 54, EXHIBIT A). At all times pertinent herein all defendants and named coconspirators knew that the action was not barred by any statute of limitations on the face of the complaint, and that the defense must be raised by answer in accord with holdings of the Oregon Supreme Court in Davis v. Davis, 20 Or 78, 25 P. 140 (1890), and in Buckman v. Hill Military Academy, 190 Or 194, 223 P2d 172 (1950). No defendant answered the

complaint to raise the defense of statute of limitations. Coconspirator Elden intentionally obstructed, impaired and hindered the administration of law and judicial function in violation of ORS 162.235 (Obstructing governmental or judicial administration), and as a proximate result of his unlawful and criminal acts committed pursuant to conspiracy subject of this complaint the plaintiff was intentionally injured and damaged as herein alleged.

46.

Pursuant to conspiracy, on August 4, 1986, defendant Carter submitted fraudulent written statements to the U.S. District Court for the District of Oregon in Portland, Oregon, in fraud knowing the court lacked jurisdiction. Knowing it was deceitful and fraudulent Carter stated, "Compton v. Ide, 732 F2d 1429, 1432 (9th Cir 1984) held that 'mere continuance of a

conspiracy beyond the date when injury or damage occurs does not extend the statute of limitations.'" That deceitfully was submitted as applicable. The applicable and true holding is the following sentence where the court held that "To establish a continuing violation, continued unlawful acts must be demonstrated." At all times pertinent, Carter, other defendants, and all named coconspirators including Redden knew that the plaintiff clearly alleged in EXHIBIT A unlawful acts committed in May, 1986, in furtherance of the conspiracy. Continuing pursuant to conspiracy, Carter fraudulently wrote, "in Hoffman v. Halden, 268 F2d 280, 302 (9th Cir 1959), it was held that when the plaintiff alleged the existence of a 'civil conspiracy to violate the Civil Right Act'," (that part of the quote cannot be confirmed), "the statute of limitations runs from the overt act alleged to have caused damage."

Pursuant to conspiracy, that written statement was deceitful and taken out of context to claim that statutes of limitation commenced to run with the first damaging act committed pursuant to conspiracy. In truth, on the following page the court held, "the last overt act alleged from which damage could have flowed, this date becomes the last date from which a statute of limitations might run." The aforementioned deceitful acts by defendant Carter were committed pursuant to conspiracy to provide pretext for dismissal of the lawsuit against defendants in EXHIBIT A. By his deceitful acts committed pursuant to conspiracy, defendant Carter intentionally obstructed, impaired and hindered the administration of law and judicial function in **violation of ORS 162.235**, and as a proximate result of his unlawful acts committed pursuant to conspiracy subject of this complaint the

plaintiff was intentionally injured and damaged as herein alleged.

47.

Pursuant to conspiracy, at all times pertinent the defendants and all coconspirators named herein including Judge Redden falsely and deceitfully appeared confused and ignorant of (a) the date the amended complaint was filed, July 7, 1986, and (b) the date the bogus petition for removal was filed, July 9, 1986, in the State court. The truth is all of them including coconspirator Judge Redden received early and repeated notice of those dates and their significance. Copies of the amended complaint that were mailed to defendants in EXHIBIT A, lawyer and judge clients of defendants herein, were each stamped by the court with the time and date it was filed. The time of filing at 8:33 A.M., Monday, July 7, 1986, after a three day holiday put the

lawyer-defendants on notice that it was probably filed before any mail was received for filing from Turner and Kobbervig even if they had mailed a copy of their bogus petition to the state court in Vale, Oregon, on the date they filed it in federal court, Thursday, July 3, 1986. Turner and Kobbervig were notified by the clerk of the state court that the copy of their petition was received July 9, 1986, by letter to them on that date. In Hartford's MOTION TO QUASH SERVICE AND DISMISS PLAINTIFF'S AMENDED COMPLAINT filed in the Circuit Court dated July 9, 1986, Defendants Hartford, Hutchens, Burnham, Yturri, Rose, et al. stated "Hartford Insurance has not as yet been served with Plaintiff's Amended Complaint. Hartford Insurance has knowledge of Plaintiff's Amended Complaint only through the courtesies of this court." Being informed by the court of the filing of the

amended complaint and not the bogus petition for removal the inference is clear that the aforementioned lawyer-defendants and Hartford **knew the amended complaint was filed before the bogus petition for removal was filed in the state court.** In a motion submitted to the federal court and Judge Redden dated **July 11, 1986, Defendants Hartford, Bentz, Burnham, and Yturri, Rose, et al., seeking additional time to respond to the AMENDED COMPLAINT** stated, "**The Petition for Removal was filed on July 9, 1986** in the Circuit Court of the State of Oregon for the County of Malheur. This is thus **the date the Petition was effective**. 28 USC s 1446(e)." (emphasis added) That document **notified Judge Redden** of facts of date of removal and that Hartford attorneys knew that they must respond to the amended complaint, (which was received by Hartford on July 8, 1986), and Bentz certified that

he sent a copy to Defendant Kobbervig. Bentz, Burnham, Hartford, and Yturri, et al., repeated the same statements, including that the date the petition was effective was July 9, 1986, in another written motion directed to the federal court and Judge Redden dated August 4, 1986. Bentz certified that he sent copies of that motion on that date to Defendants Roehr, Turner, and Kenneth E. Roberts and to coconspirators Kobbervig and Elden. They were all directly informed on or before August 6, 1986, that the bogus petition was not filed in the state court until July 9, 1986. On August 7, 1986, the plaintiff submitted to the U.S. District Court, to Redden, and to defendants Carter, Kenneth Roberts, Burnham, Bentz, Yturri, Rose, et al., and Roehr and to coconspirators Turner, Kobbervig,, and Elden copies of bogus documents filed in the state court by

Turner and Kobbervig including the copy of the so-called petition for removal (without the accompanying complaint), notice of filing of the petition, and cover letter. Each of the copies of the documents was stamped that showed that the filing in the state court by Turner and Kobbervig was July 9, 1986. On August 13, 1986, the plaintiff mailed to the clerk of the U.S. Court, Redden, and to each and all of the aforementioned defendants and coconspirators documents that notified them that the Amended Complaint was filed in the state court on July 7, 1986.

48.

Knowing that the removal was fraudulent and ineffective, and knowing that the original or certified copies of the complaint or amended complaint had not been removed to the federal court from the state court, knowing that the federal court lacked subject matter jurisdiction,

and knowing that the "complaint" was null and void and replaced by an amended complaint, on or about July 29, 1986, pursuant to conspiracy subject of this complaint, coconspirator Elden fraudulently submitted to the U.S. District Court for the District of Oregon and to coconspirator Judge Redden motion to dismiss as follows: "Come now defendants Carl R. Kostol, Allan L. Ferrin, David E. Reid, and Howard I. Bobbitt (state defendants) and respectfully move the court pursuant to F.R.C.P. 12(b)(6) to **dismiss the complaint which has been removed to federal court** for failure to state a claim upon which relief can be granted. ..." (emphasis added) It was clearly the null and void "complaint" and the non-certified copy filed by coconspirators Turner and Kobbervig to which the motion was fraudulently directed. Pursuant to

conspiracy the motion was never amended even after Elden received written notice from the plaintiff that the "complaint" was replaced by an "amended complaint" prior to the bogus removal. On July 8, 1986, Elden telephoned the plaintiff and was advised that an amended complaint was filed the day before. It was apparent that neither plaintiff or Elden had been notified that a petition for removal was filed. The motion submitted by Elden clearly had no legitimate legal purpose and pursuant to conspiracy was a fraudulent use of legal proceedings to intentionally illegally damage and injure the plaintiff. By the aforementioned act committed pursuant to the conspiracy subject of this complaint, coconspirator Elden intentionally obstructed, impaired and hindered the administration of law and judicial function by economic interference and obstacle in violation of ORS 162.235,

and as a proximate result of that unlawful and criminal act committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

49.

Pursuant to conspiracy, knowing the federal court lacked jurisdiction, and knowing that the "complaint" was a nullity, on or about August 4, 1986, **Defendants Roehr and Craig**, both lawyers, fraudulently submitted to the U.S. District Court for the District of Oregon in the case of EXHIBIT A "Motions of Defendant Debbie Freepons Craig **to dismiss plaintiff's complaint.**" Pursuant to conspiracy, the word "complaint" was fraudulently used repeatedly in the five page document without mention of the amended complaint which Craig had been served. Pursuant to conspiracy, the motion was never amended even after it was provable that they had actual written

notice the date of claimed removal was July 9, 1986. Defendant Roehr and Craig intentionally obstructed, impaired and hindered the administration of law and judicial function in violation of ORS 162.235, and as a proximate result of the foregoing unlawful and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

50.

Knowing that the federal court lacked jurisdiction and that the complaint filed in that court was a nullity, Defendant Carter representing Colorado State judges, and pursuant to conspiracy with Defendants Smith and Ruland and pursuant to the total conspiracy subject of this complaint, knowing that the federal court and coconspirator Judge Redden lacked jurisdiction, on or about August 4, 1986, fraudulently submitted to the U.S.

District Court for the District of Oregon in the case of EXHIBIT A written motions to dismiss the plaintiff's "claims" against defendant Colorado judges including Smith and Ruland. Pursuant to conspiracy, in the motion the words "complaint" or "amended complaint" deceitfully were not used, but in the 12 page memorandum submitted by those defendants in support of the motion, **fraudulently directing their motion to the null and void complaint**, they wrote, "Defendants have moved for an order dismissing plaintiff's **complaint** ..." (emphasis added). Pursuant to conspiracy, they fraudulently repeatedly referred to the void complaint without mention of the amended complaint. Pursuant to conspiracy, in support of the aforementioned motion defendants Carter, Smith and Ruland submitted **fraudulent affidavits by judges including Smith and**

Ruland, defendants herein and in EXHIBIT A, each of whom fraudulently directed his sworn declarations to the "complaint" - although each had been served the amended complaint and knew that the "complaint" was a nullity. By their aforementioned acts committed pursuant to conspiracy, Defendants Carter, Smith and Ruland intentionally obstructed, impaired and hindered the administration of law and judicial function by means of economic interference or obstacle in violation of ORS 162.235, and as a proximate result of those illegal and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

51.

On February 6, 1987, pursuant to conspiracy, acting without jurisdiction, coconspirator Judge Redden unlawfully and illegally dismissed the plaintiff's lawsuit of which EXHIBIT A is the amended

complaint. Pursuant to conspiracy subject of this complaint, each and every holding of coconspirator Redden in **EXHIBIT J** and in his written opinion, **EXHIBIT L**, is the result of fraud and collusion, and made with coconspirator Judge Redden knowing that he lacked jurisdiction of the lawsuit of which EXHIBIT A is the amended complaint. Pursuant to conspiracy, **coconspirator Redden falsely, fraudulently and maliciously slandered and libeled the lawsuit of EXHIBIT A**, and provided pretext for anticipated subsequent judges to cover him by doing the same types of false, fraudulent acts.

52.

Pursuant to conspiracy, coconspirator Judge Redden delayed issuing his written opinion until March 4, 1987, copy appended hereto as **EXHIBIT L.** Coconspirator Redden's fraudulent order of dismissal issued pursuant to conspiracy is appended

as **EXHIBIT M** and his order of entry of judgement is appended as **EXHIBIT N**. His dismissal, entry of judgment, and opinion are the the result of fraud and collusion,and illegally were determined and issued pursuant to the conspiracy subject of this complaint.

53.

Pursuant to conspiracy, **Redden's Opinion, EXHIBIT L**, is filled with false fraudulent fabrication of "facts" which he knew were false. Pursuant to conspiracy, some of his "fact" statements were fraudulently adopted from false fraudulent statements of lawyers who are defendants herein. Defendants and all named coconspirators including Judge Redden at all times pertinent knew that at this stage of proceedings the facts were those found in the Amended Complaint and those found in affidavits. Pursuant to conspiracy coconspirator **Judge Redden illegally**

denied the plaintiff benefit of the facts alleged in the Amended Complaint which at this stage of the proceedings must be accepted as true. Pursuant to conspiracy, Redden's fraudulent opinion is not based upon affidavits or the Amended Complaint. Pursuant to conspiracy, each and every holding and ruling including dismissals by Redden are fraudulent. Redden acted pursuant to conspiracy without jurisdiction which is on the face of the record. On the face of the record the petition for removal was inadequate and ineffective, and on the face of the record the judge did not have the original or certified copies of either the complaint or amended complaint. Lacking subject matter jurisdiction, the court lacked personal jurisdiction of all defendants of EXHIBIT A. In the following analysis, the plaintiff is directing his exposures to internal inconsistencies and frauds and to

the acts of the judge as if he had subject matter jurisdiction which he did not. Some but not all of the complicated frauds and fraudulent acts committed by Redden pursuant to conspiracy in his opinion follow.

(1) Redden's characteristics of defendants are false and he knew his statement concerning them was false. Contrary to his false statement, none of the defendants of EXHIBIT A are members of the medical staff of Brighton Community Hospital, the Colorado Board of Medical Examiners, or members of the Oregon Board of Medical Examiners. There is no legal evidence that any defendant is a member of the Colorado Medical Society. Redden fraudulently omitted characterizing several defendants.

(2) Redden stated, "The United States removed the case to federal court on July 3, 1986 on behalf of a federal

judge who had been served, defendant Finesilver, and other federal officers and employees who had not been served." The statement is totally false in all its parts, Redden knew it was false when he issued his opinion, and it is fraudulent. The sentence is separated into its parts as follow:

(a) In truth, the bogus petition does not claim that the United States removed the case. Redden knew when he issued the opinion that the right to remove pursuant to 28 USC s.1442 (the statute related to removal by federal employees), copy appended hereto as EXHIBIT O, is limited to served defendants. At all times pertinent, Redden knew that the United States was not a defendant and that even if the United States did remove it, which it did not, there was no jurisdiction of the United States in the state court and the only jurisdiction of the federal court

was derivative and the case would necessarily be remanded as pronounced in Martinez v. Seaton, 285 F2d 587 (10th Cir, 1961). Redden changed his finding in his opinion denying plaintiff's motion to remand in which he ruled that Finesilver removed the case, (**paragraph 15 above**). That claim lacked deceit value in that it was too transparently false and fraudulent to even those not legally trained.

(b) The case was not removed as falsely and fraudulently stated by Redden, who knew his statement was false when the opinion was issued. The petition was totally defective in that it was not filed in the federal court by a defendant, it was not verified, it was not accompanied by a bond, and a copy was not filed in the state court by a defendant. On the face of the record the lawsuit was not removed to the federal court.

(c) The date of July 3, 1986, as the

claimed date of removal is false and fraudulent and Redden at all times pertinent herein knew that it was false and fraudulent. On that date, July 3, 1986, coconspirators Turner and Kobbervig filed their bogus petition for removal in the federal court. They filed a copy of their bogus petition in the state court on July 9, 1986. The removal statute, EXHIBIT D, clearly states that removal is effected only upon filing of a copy of the petition in the state court by a defendant, and Redden knew that fact of law and he knew the date the bogus petition was filed in the state court when he issued his fraudulent opinion. Pursuant to conspiracy subject of this complaint, Redden falsely and fraudulently claimed the removal was July 3, 1986, knowing it was false to avoid the fact of the amended complaint being filed in the state court by the plaintiff on July 7,

1986, which was prior to bogus ineffective removal on July 9, 1986. Pursuant to conspiracy, in his opinion Redden fraudulently avoided referring to the "complaint" or the "amended complaint" except he **fraudulently ruled that the "complaint" was barred by statutes of limitation**, page 6, line 2, EXHIBIT L, and he referred to both the complaint and amended complaint on lines 15-20 on page 7 in language that **admits his knowledge that the amended complaint was filed before the bogus removal** and that he distinguished between "complaint" and "amended complaint."

(d) Pursuant to conspiracy, Redden's statement that the petition was removed "on behalf of" a federal judge is false and fraudulent and Redden knew it was false when he issued the opinion. Without prior court order there is no provision in the rules or removal statutes for anyone

to act "on behalf of" a party in a lawsuit, and Redden knew that at all times pertinent herein.

(e) Pursuant to conspiracy, Redden's statement that the petition was removed "on behalf of a federal judge who had been served, defendant Finesilver, and other federal officers and employees who had not been served" is fraudulent. **There is no legal evidence in the record that any federal officer or employee including Finesilver was served or was not served a summons and complaint.** Coconspirator Judge Redden knew when he issued his opinion that **Turner and Kobbervig in their bogus non-verified petition made no reference to a summons being served on Finesilver, which is required for personal jurisdiction** and has been so pronounced by the Oregon Supreme Court in South State Inv. Co. v. Brigum, 43 Or App 273, 602 P2d 1084 (1979). The removal statute

(EXHIBIT D) 26 USC s.1446 (a) requires the moving party to file with the petition for removal "a copy of all process, pleadings and orders served upon him ..." **Turner and Kobbervig did not file a copy of any summons. Redden had to presume that Finesilver had not been served a summons.** At all times Redden also knew that in addition to other defects in the bogus petition, the bogus petition failed in the requirement that a petition is required to state with certainty even the date the removing party was served a summons as pronounced by a federal court in Jennings v. Cantrell, 392 F.Supp. 563 (ED, Tenn, 1974). Pursuant to conspiracy, in his opinion, EXHIBIT L, page 3, lines 12-17, Redden fraudulently omitted reference to the date he fraudulently claimed Finesilver was served. Redden knew when he issued his fraudulent opinion that proper **service of a summons and complaint**

on the federal officer in the state court is a precondition to removal under 28 U.S.C. s.1442 and that it was so found by federal courts in IMFC Professional Services of Florida, Inc., 676 F2d 152 (5th Cir, 1982), Housing Authority of City of Atlanta, GA. v. Millwood, 472 F2d 268 (5th Cir, 1973), and in Martinez v. Seaton, 285 F2d 587 (10th Cir, 1961). Pursuant to the conspiracy subject of this complaint, **Redden fraudulently stated that Finesilver was served** to provide color to act as to defendants who were not federal employees since legal precedence clearly required remand to the state court when the federal defendant was not properly served a summons and copy of the complaint. **Redden knew that without personal jurisdiction of Finesilver he had no subject matter jurisdiction and therefor no personal jurisdiction of any of the parties of the lawsuit of EXHIBIT**

A. That lack of jurisdiction in the federal court is on the face of the record.

(e)(1) Pursuant to conspiracy coconspirator Jerry C. Harris presented to the plaintiff the transcript of the hearing of February 6, 1987, copy appended as **EXHIBIT J.** On page 4, lines 2-4, the transcript reads, " MS. KOBBERVIG: Judy Kobbervig, representing the three circuit and one district court judges; Judge Silverstein has never been served in this case." Ms Kobbervig had no connection with state judge Silverstein. **The inference is clear that in truth she said "Judge Finesilver has never been served in this case."** That did not correspond to Redden's fraudulent claim that Finesilver had been served. Pursuant to conspiracy between court reporter Harris and Redden and pursuant to the total conspiracy subject of this

complaint, Harris illegally changed the original and true transcript. (See paragraph 38 above for similar act, a method of criminal conduct also employed by defendants in EXHIBIT A, paragraph 27 therein.)

(3) Pursuant to conspiracy, Redden falsely and fraudulently stated, "Plaintiff filed a motion to remand the case to state court on August 8, 1986." Redden knew that was false. The plaintiff filed a motion to remand by certified mail on July 15, 1986, the return acknowledgment of receipt is stamped July 16, 1986, and it was docketed as received in the federal court on July 17, 1986.

(4) Redden stated in reference to Roberts, defendant in the case of EXHIBIT A, "Plaintiff's cases all stem from the failure to renew his hospital privileges at the Brighton Community Hospital in Brighton, Colorado approximately twelve

years ago." That statement is false and fraudulent and Redden knew that it was false and fraudulent. The word "stem," according to a dictionary in this context means, "to derive from or originate in." There is no place in the record of this or any other lawsuit that justifies that statement. It is not only false, but it is fraudulent in that it fraudulently implies that claims against Roberts in EXHIBIT A relate primarily to the Brighton Hospital by conspiracy and not as a result of his direct conspiratorial involvement with lawsuits against Hartford. Roberts' illegal activities subject to the lawsuit of EXHIBIT A relate to lawsuits against Hartford for libel, other unlawful acts of Hartford in conspiracy with a medical society committee to not renew plaintiff's malpractice insurance, an antitrust action because of an illegal contract between Hartford and the Colorado Medical Society

to obstruct justice in essentially all malpractice lawsuits and lawsuits by physicians against physicians, and a collusive lawsuit instituted by Hartford against the plaintiff.

(5) Pursuant to conspiracy, Redden further stated, "Plaintiff has alleged in the instant action that Mr. Roberts acted pursuant to a conspiracy by supplying the Colorado Board of Medical Examiners deceitful, false information concerning the plaintiff." The statement is fraudulent in that it minimizes the claim of paragraph 39 of the Amended Complaint, EXHIBIT A, by not noting the nature of the information which related to the fraudulent lawsuit by a patient alleging malpractice that was commenced in collusion and at the instigation of Hartford, and by not noting the nature of the antitrust action by the plaintiff against Hartford and the medical society.

Pursuant to conspiracy, the statement by Redden is fraudulent in that it omits the allegations against Mr. Roberts found on lines 1-9, page 18 of the Amended Complaint. Allegations there, avoided by Redden, relate to fraudulent documents submitted to judges of the Colorado Appeals Court by Roberts in participation in conspiracy with them and others to dismiss a lawsuit against Hartford and others by means of fraudulent application of an immunity statute to persons not covered in the statute.

(6) The illegal dismissal of claims against Roberts by Redden pursuant to conspiracy with claim of lack of personal jurisdiction over him relates to fraudulent acts of Roberts and his attorney Kenneth E. Roberts related in paragraph 21 and other paragraphs herein. At all times pertinent Redden, defendants K. Roberts, and T. Roberts knew that acts

committed by coconspirators in Oregon provided a legal basis of personal jurisdiction of T. Roberts in Oregon.

(7) Pursuant to conspiracy, in fraudulently characterizing the acts of the former members of the Board of Medical Examiners on page 7 of his opinion, Redden omitted the fact that the former members of the board **and their lawyer, Bobbitt,** acted to continue the conspiracy subject of EXHIBIT A by not revealing the reason they refused in 1965 to issue a certificate of annual registration of the plaintiff's license to practice medicine, a clerical function which is a continuing illegal denial of plaintiff's right to use his license to practice medicine and surgery in Oregon. **The acts of refusing to supply information were committed in 1986 as alleged.** What they "stem" from is irrelevant as to statutes of limitation. Redden knew when he issued his fraudulent

opinion that their acts "stem" from something known only to the defendants which they refused to reveal in 1986 and that refusal to supply information causes the conspiracy subject of EXHIBIT A to continue as alleged in EXHIBIT A.

(8) Redden fraudulently bars action against "state defendants" under pretext that the allegations are of acts which "stem" from the past. Redden knew that what those acts stem from is irrelevant.

(9) Redden fraudulently characterized defendants Carl R. Kostol, M.D., Allan L. Ferrin, M.D., David E. Reid, D.O., and Howard I. Bobbitt, a lawyer, as "state defendants." The allegations against them are for acts committed at times when they were not members of the Board of Medical Examiners or state employees. That false fraudulent characterization is connected to fraudulent acts of coconspirator Assistant

Attorney General for the State of Oregon, Thomas K. Elden. Under pretext of that false, fraudulent characterization, and Redden's false and fraudulent characterizations of the allegations, Redden fraudulently dismissed the action against them under pretext of a two year Oregon statute of limitation that relates to government officials. Even if his characterizations were correct, which they were not, acts alleged in the complaint were in May, 1986, and acts committed pursuant to conspiracy subject of 42 USC s.1983, a statute providing for damages due to violations of Constitutional rights, do not start to run until the last overt act, and Redden knew that. Redden knew that no statute of limitation commences to run until the date of the last act committed pursuant to conspiracy or the last of the accumulated acts that produce an indivisible injury. Pursuant

to conspiracy, Judge Redden, coconspirator of defendants herein, fraudulently and illegally **dismissed as to these and other defendants herein under pretext that the lawsuit of EXHIBIT A was commenced after the statutes of limitations had expired knowing that he lacked absolutely essential evidence to rule on any statute of limitation.** Because no records were removed from the state court **he did not have legal evidence as to the date the lawsuit of EXHIBIT A was commenced**, and at all times pertinent herein Redden knew that he lacked the essential date of the filing of the complaint in the state court which commenced the lawsuit of EXHIBIT A. Pursuant to conspiracy, on page 3, line 12, of his opinion, EXHIBIT L, Redden wrote, "The case was initially filed in Malheur County, Oregon." **Pursuant to conspiracy, he deceitfully did not state the date.** Redden knew that he did not

even have an affidavit or other legal evidence as to when the lawsuit was commenced by that filing. The only persons who could provide that absolutely essential legal evidence was the clerk of the state court and the plaintiff. Pursuant to conspiracy, to provide some color or pretext for such a date, which he knew, he asked for that date in open court in the presence of the plaintiff on September 2, 1986, EXHIBIT G, page 6, line 11. He did not obtain the necessary certain date. The other essential date in ruling on a statute of limitations is the date the statute of limitations commenced to run. Pursuant to conspiracy Redden deceitfully avoided determining that date in each and every instance of rulings on statutes of limitation and he deceitfully referred to remote irrelevant dates.

(10) Redden's ruling as to failure to state a claim for relief is as false and

fraudulent as the preceding acts, and particularly considering that his rulings relate to the null and void "complaint" and not the amended complaint which has technical changes to avoid pretext for such a ruling. Pursuant to conspiracy, his acts were intentionally committed to maliciously slander the lawsuit of EXHIBIT A.

(11) Pursuant to conspiracy, Redden fraudulently stated, "Moreover, the motion is granted as to plaintiff's third claim for relief because the claims of civil rights violations refer to events in Colorado and have no reference to the Oregon state defendants." At all times pertinent coconspirator Redden knew that any act in a state by a coconspirator is a "constructive presence" in the state by all conspirators as pronounced by the U.S. Supreme Court in Hyde v. U.S., 225 U.S. 347, 32 S.Ct. 793, 56 L.Ed. 1114 (1912).

At all times pertinent Redden knew that all coconspirators were responsible for all acts committed pursuant to the conspiracy wherever they were committed. Pursuant to conspiracy Redden devised this second fraudulent reason for dismissing the civil rights claim because he knew that dismissal of the civil rights action based upon statutes of limitation was in direct conflict with a case in the Ninth Circuit (the superiors of Redden), Hoffman v. Halden, 268 F2d 280 (1959) which held that the statutes of limitation for civil rights violations do not commence until the date of the last act committed pursuant to conspiracy.

(12) On page 6 of his opinion, EXHIBIT L, in reference to Hartford, Redden falsely and fraudulently repeated the false fraudulent statements of defendants herein as to facts of the case. Coconspirator Judge Redden at all times

pertinent herein knew the difference between facts upon which to base opinions and decisions and facts as stated by lawyers. Redden, knowing it was and is false, falsely and fraudulently stated, "Plaintiff's professional conduct as a physician was apparently questioned and reviewed by a hospital review committee at Brighton Community Hospital." **That statement by Redden pursuant to conspiracy is extremely outrageous, irresponsible, false, libelous, and was made knowing it was not true in reckless disregard of the truth and of the rights and feelings of the plaintiff and to intimidate him pursuant to conspiracy.** Pursuant to conspiracy, Redden's fraudulent statement that "Plaintiff reportedly refused to cooperate ..." flagrantly made to intentionally insult and intimidate the plaintiff with his abuse of power pursuant to conspiracy is like disparaging a woman

for not cooperating with a rapist. Redden's false fraudulent statement pursuant to conspiracy that "consequently his liability insurance coverage was cancelled," was made by Redden knowing it was false to intimidate the plaintiff by his unlimited power to libel the plaintiff in his professions.

(13) Pursuant to conspiracy Redden deceitfully wrote, "I need not reach the motions to strike and make more definite and certain ..." in truth because that motion was directed to the AMENDED COMPLAINT and to rule on that particular motion could require direct unambiguous reference to the amended complaint.

(14) Pursuant to conspiracy Redden falsely and fraudulently stated, knowing it was false, as to Hartford, "personal jurisdiction is lacking under Rule 4 of the Oregon Rules of Civil Procedure. Defendant Hartford has had no contact with

Oregon which is relevant to the cause of action." At all times pertinent Redden knew that the truth is that ORCP Rule 4, C,D,I(2), quoted in **paragraph 30** above, provides for personal jurisdiction of Hartford. Further, Redden knew that the general appearance of Hartford in making its motion for attorney fees waived any claim that the court lacked personal jurisdiction. The fraudulent dismissal of Hartford because of no contact with the plaintiff in Oregon is related to frauds and collusion addressed above.

(15) Pursuant to conspiracy, and inconsistent with his claim of no personal jurisdiction of Hartford, Redden, on page 6 of EXHIBIT L in reference to Hartford, fraudulently ruled the **"complaint"** is barred by **statutes of limitation.** Pursuant to conspiracy, Redden fraudulently directed his holding to the null and void "complaint." If Redden

believed that there was no personal jurisdiction in the state court prior to the bogus removal or by its appearances in the federal court he could legally proceed no further. Pursuant to conspiracy he made additional rulings as to why the action is dismissed as to Hartford to slander the lawsuit and to illegally threaten the plaintiff with "sanctions" if the plaintiff again seeks remedy in any way for acts alleged in EXHIBIT A. The statement that the action is barred by statutes of limitations is as fraudulent as his other acts. Pursuant to conspiracy, Redden presented fraudulent "findings" upon which to fraudulently claim basis for his opinion and dismissals. Pursuant to conspiracy Redden did not make the essential findings as to when the statutes of limitations commenced running and when the lawsuit was commenced. Redden knew that he had no

competent evidence before him as to when the initial complaint was filed in the state court upon which to base any claims concerning statutes of limitation. Pursuant to conspiracy, Redden fraudulently cited ORS 12.110(1) which is a two year statute of limitations for any injury to the person or rights of another. An issue is when such a statute commences to run. At all times pertinent defendants and Redden knew that in the instant case alleging conspiracy and alleging acts causing one indivisible injury statutes of limitation did not start to run until the last alleged act, May, 1986. (paragraph 53 of EXHIBIT A). Other acts cited in EXHIBIT A, paragraph 35 (June 15, 1984), paragraph 38 (July 18, 1984), were clearly within the 2 year period with the action of EXHIBIT A being commenced June 3, 1986. Pursuant to conspiracy, Redden disregarded the allegation of paragraph 52 (b) in

which the plaintiff alleged damage from illegal closure of Courts in Colorado where the corresponding statute of limitations is 6 years. That fact is an issue for the jury since Redden fraudulently cut off acts prior to two years in conflict with legal precedence regarding conspiracy and acts producing one indivisible injury. Pursuant to conspiracy, Redden fraudulently cited ORS 659.045(1) entitled, "Complaints of discrimination in housing or in place of public accommodation or in private vocational, professional or trade school." The reference to that statute is completely inappropriate and an insult. Pursuant to conspiracy, Redden fraudulently cited ORS 12.115(1) which is addressed in **paragraph 45** above. Redden knew that the statute barring claims for negligent acts after 10 years is inapplicable to the claims of EXHIBIT A

because they are for damage caused by intentional acts, not negligent ones. In breaking down the complaint into parts and not considering the totality of the conspiracy, **Redden deceitfully did not mention ORS 12.080(1) which is six years for actions on contract.** Breach of insurance contract by Hartford occurred on March 6, 1981, alleged in paragraph 42 of EXHIBIT A which was clearly within that statute of limitation, and now subject of damages of this complaint due to 6 years having now passed due to obstruction of justice. Pursuant to conspiracy, Redden did not mention that the statute of limitations for civil rights actions, the third claim for relief, is six years in Oregon. Clark v. Musick, 623 F2d 89 (9th Cir, 1980); Plummer v. Western International Hotels Co., Inc., 656 F2d 502 (9th Cir, 1981). Pursuant to conspiracy, he falsely and fraudulently

claimed the entire **"complaint"** is barred by the two year statute cited.

(16) Pursuant to conspiracy, on page 6, EXHIBIT L, in reference to Hartford, Redden dismissed the 1st and 3rd claims "because they fail to state a claim upon which relief can be granted as to this defendant." Pursuant to conspiracy, that dismissal was fraudulently **directed to the null and void complaint and not the amended complaint.** It is fraudulent also in that Hartford as a coconspirator with judges is responsible for acts violating the plaintiff's civil rights under color of Colorado state law, which principle Redden knew was pronounced by the U.S. Supreme Court in Dennis v. Sparks, 101 S.Ct. 183, 449 U.S. 24, 66 L.Ed.2d 185 (1980).

(17) In reference to defendant Craig, pursuant to conspiracy Redden deceitfully stated, "Ms Craig was law

clerk to Judge Ruland ... All claims brought against her in this case arise out of actions which allegedly occurred by virtue of this employment." Redden's statement is deceitful in that it implies but does not rule that Craig was acting within her employment when she acted in Oregon, pursuant to conspiracy. Redden's dismissal as to Craig based upon judicial immunity is fraudulent and he knew that it was in direct conflict with holdings by the U.S. Supreme Court in Nevada v. Hall, 440 U.S. 410, 99 S.Ct. 1182, 59 L.Ed.2d 416 (1979) and the Colorado Court of Appeals which adopted its holdings including, "...sister states who engage in activities within California are subject to our laws with respect to those activities and are subject to suit in California courts with respect to those activities. ... state sovereignty ends at the state border." Peterson v. State of

Texas, ___Colo App___, 635 P2d 241,242 (1981). Redden knew that Judge Ruland had no jurisdiction whatsoever to act in Oregon and consequently on its face had no judicial immunity for acts committed in Oregon; and Redden knew that Craig had no immunity for acts she committed in Oregon derived from working for a Colorado judge. Pursuant to conspiracy, Redden fraudulently stated, "... dismiss... plaintiff's failure to provide notice and file within the applicable statute of limitations." Pursuant to conspiracy, Redden deceitfully did not state the notice to which he referred and to which statute of limitation he relied upon. Redden knew that the Colorado notice requirements and statute of limitations concerning suing employees of the state of Colorado is part of its "Colorado Governmental Immunity Act" which is not applicable to lawsuits in Oregon courts

for acts committed in Oregon or so connected with Oregon as to give jurisdiction to Oregon courts. Redden knew that state governmental immunity acts are derived from the doctrine "that no sovereign may be sued in its own courts without its consent, but it affords no support for a claim of immunity in another sovereign's courts," as ruled by the U.S. Supreme Court in Nevada v. Hall, supra, at 440 U.S. 416. Redden also knew that no notice required by Colorado state law was required prior to bringing action based upon 42 USC s.1983, the plaintiff's 3rd claim for relief. Redden knew that statutes of limitations for the 3rd claim for relief based upon 42 USC s.1983 clearly did not begin to run until the date of the last act committed pursuant to the conspiracy, and that the statute of limitations for that claim is 6 years in both Colorado and Oregon. Pursuant to

conspiracy **Redden deceitfully did not make the essential findings as to what statute of limitation applied, when it began to run, and when the lawsuit of EXHIBIT A was commenced**, and Redden knew that all of those findings are essential to claim bar by expiration of statutes of limitation.

(18) Pursuant to conspiracy, Coconspirator Judge Redden allowed withdrawal of appearances and then dismissed as to 8 Colorado judges who were not served summonses and complaints. This allowance of withdrawal of general appearances pursuant to conspiracy was without legal justification. Those judges by and through their attorney Carter, defendant herein, entered general appearances in the state court on July 9, 1986. Pursuant to conspiracy, on July 21, 1986, they fraudulently entered general appearances in the federal court knowing it lacked jurisdiction. Pursuant to

conspiracy, Redden fraudulently stated in EXHIBIT L on page 7, lines 13-17, "They then learned that the case had been removed to federal court and moved for an extension of time within which to respond to the amended complaint which had just been filed. They indicate that they were uncertain at that time which defendants had actually been served with the amended complaint." First, this being the only recognition of the existence of the amended complaint in the opinion, it clearly reveals that Redden knew that Carter knew that it was the amended complaint to which he must respond, a fact only if the bogus petition was filed in the state court after the amended complaint had been filed. It was in that appearance by motion that Carter and the judges he represented stated, "Also these defendants are uncertain as to the **status of an amended complaint** ..." (The motion

was granted by Redden July 24, 1986.) In a supporting affidavit, Carter stated he learned that the plaintiff had filed an amended complaint before he learned that "this matter had been removed..." Redden knew that his statement as to lack of knowledge as to which ones had been served the amended complaint is irrelevant. Pursuant to conspiracy, Redden fraudulently stated, EXHIBIT L, page 7, lines 22-23, "Plaintiff was served with the motion to withdraw on August 4, 1986, and still has not served these defendants." Redden and the defendant Colorado judges seeking withdrawal of appearances, and all defendants herein, knew that the plaintiff had a right to rely upon the general appearances in the state court as waiving requirement of service of summonses and complaints, an expensive, time consuming process. Pursuant to conspiracy, the motion to

remand by the plaintiff was not denied until October 17, 1986. Any service of summonses and complaints could have caused jurisdiction in the federal court which was not the court the plaintiff rightfully chose as the proper forum. Coconspirator Redden and all defendants herein knew that the unlawful motion and threat to award attorney fees was submitted by Hartford and its attorneys on October 8, 1986. As noted above, as a proximate result of that illegal threat and coconspirator Redden's maintaining and encouraging it pursuant to conspiracy, the plaintiff did not act any further in the federal court.

(19) Pursuant to conspiracy, on page 8 of his opinion, EXHIBIT L, Judge Redden acting on motion to dismiss the null and void "complaint," of which he had only an alleged non-certified copy, fraudulently dismissed as to served Colorado State judges. Pursuant to conspiracy, he

dismissed under pretext of lack of personal jurisdiction, no notice under Colorado Governmental Immunity statutes, judicial immunity, and "applicable" statutes of limitation. Pursuant to conspiracy, and representative of the low calibre of deceit, Redden outrageously, falsely, and deceitfully stated on lines 18-20, page 8 of EXHIBIT L, "Dr. Tyler alleges that he has been damaged as a result of a conspiracy beginning in 1974 and the claim was commenced in 1986." At all times pertinent Redden knew that the conspiracy did not begin in 1974 and that at no time did the plaintiff ever allege when any conspiracy began, and when it began was deceitfully injected and is irrelevant to the statutes of limitation and at all times coconspirator Judge Redden knew that. At all times Redden knew that the date of the last act, not the first act, is the date statutes of

limitation concerning conspiracy begin to run. Pursuant to conspiracy Redden deceitfully used the date "1974" and the vague date "1986." Pursuant to conspiracy Redden deceitfully did not make the essential findings as to **what statute of limitation applied, when the statute began to run, and the date certain that the lawsuit of EXHIBIT A was commenced.** At all times pertinent he knew that he did not even have legal evidence that it was commenced in 1986 as he determined.

(20) Pursuant to conspiracy Judge Redden on page 9 of EXHIBIT L dismissed as to **Judges Finesilver, Seth, McKay, and Logan. The fraudulent dismissal** is the result of a legally inadequate motion with the only identification being "Defendants, four federal judges," filed in the federal court pursuant to conspiracy by coconspirators Turner and Kobbervig on August 11, 1986. Pursuant to conspiracy

the motion didn't mention the complaint or the amended complaint. Pursuant to conspiracy the accompanying memorandum was directed deceitfully to the null and void "complaint." Their motion was supported only by deceitful argument and not by any affidavits. No legal evidence was submitted to counter the allegations of actions pursuant to conspiracy. Pursuant to conspiracy, this fraudulent and illegal dismissal as well as those of Colorado state judges by Redden, coconspirator of defendants herein, was knowingly done in direct conflict with holdings by the Ninth Circuit Court of Appeals, which supervises the U.S. District Court of the District of Oregon. At all times pertinent herein, Redden knew that it held in Rankin v. Howard, 633 F.2d 844, 847-848 (9th Cir 1980) "Although a party conniving with a judge to predetermine the outcome of a judicial proceeding may deal with him in

his 'judicial capacity,' the other party's expectations, i.e., judicial impartiality, is actively frustrated by the scheme. In any event, the agreement is not 'a function normally performed by a judge.' It is the antithesis of the 'principled and fearless decision-making' that judicial immunity exists to protect. ... We conclude that a judge's private, prior agreement to decide in favor of one party is not a judicial act. ... If the alleged agreement manifests Judge Zeller's participation in a conspiracy, then proof of the agreement could form the basis of liability ..." The foregoing was that court's interpretation of Stump v. Sparkman, 435 U.S. 349 (1978), which Redden fraudulently cited as pretext for his illegal dismissals.

(21) Dismissals of defendants not served, EXHIBIT L, page 9, lines 21-22, was done unlawfully pursuant to

conspiracy. This was done pursuant to conspiracy intentionally to illegally deny the plaintiff any right to public trial of any part of the lawsuit of EXHIBIT A which would be the expected result if Redden remanded the case to the state court. Not being served summonses and complaints, Redden had no personal jurisdiction of those defendants as enunciated in Rankin v. Howard, 633 F.2d 844 (9th Cir, 1980), and at all times pertinent Redden knew that. At all times pertinent Redden knew that with lack of personal jurisdiction he had no jurisdiction at all of those parties and that he had no authority whatsoever to dismiss them and it was particularly oppressive to dismiss as to them "on the merits."

54.

Coconspirator Judge Redden's opinion, EXHIBIT L, in all its important parts and in its entirety are connected to

aforementioned fraudulent acts of defendants herein and each of them pursuant to conspiracy and is the result of fraud and collusion. By his act of issuing the aforementioned opinion and illegal orders of dismissals and illegal entry of judgment pursuant to conspiracy, Redden, knowing he was acting without jurisdiction, intentionally obstructed, impaired and hindered the administration of law and judicial function by means of economic interference or obstacle in violation of ORS 162.235, and as a proximate result of those illegal and criminal acts committed pursuant to conspiracy the plaintiff was injured and damaged as herein alleged.

55.

Pursuant to conspiracy, on March 3, 1987, Redden set a hearing for March 26, 1987, "on Hartford's motion for atty fees and costs." Pursuant to conspiracy, Redden

ordered judgment of dismissal entered against the plaintiff March 9, 1987. Pursuant to conspiracy the motion to award defendants attorney fees and costs remained as a continuing outrageous threat against the plaintiff as an extortion to prevent appeal and action by the plaintiff in the state court in the case of EXHIBIT A.

56.

All defendants and named coconspirators knew at all times pertinent that the jurisdiction was still in the state court and pursuant to conspiracy they outrageously sought illegal termination of the case through coconspirator Elden, who as Assistant Attorney General for the State of Oregon could act criminally and expect no civil or criminal accountability, and through his providing pretext for illegal dismissal by coconspirator Judge Yraguen, who as a

judge is not in reality subject to civil or criminal law. On March 16, 1986, pursuant to the total conspiracy subject of this complaint, coconspirator Elden wrote a letter to coconspirator Judge Yraguen received by him, copy appended hereto as **EXHIBIT P.** The letter falsely and fraudulently stated that the case had been removed to the federal court and dismissed and that there was "nothing left to accomplish in Malheur County." Without any legal evidence before him, without a motion or other legal reason to act, without notice or hearing, without due process of law, and inconsistent with claim that the case was removed to the federal court, Judge Yraguen acted pursuant to the conspiracy as a coconspirator and illegally dismissed the case of EXHIBIT A, copy of order appended hereto as **EXHIBIT Q.**

Pursuant to conspiracy, on March 26, 1987, Judge Redden granted the motion of Hartford Insurance Group to order the plaintiff to pay its attorney fees and costs. The written opinion by Judge Redden, copy appended as **EXHIBIT R**, is replete with false fraudulent statements. Knowingly acting without jurisdiction of the lawsuit and without jurisdiction of the plaintiff, Redden started with false characterizations of defendants and fraudulent omissions of characterizing other defendants. He again avoided stating a date that the case of EXHIBIT A was commenced, and falsely fraudulently stated that it was removed to the federal court on July 3, 1986. He fraudulently covered that the hearing February 6, 1987, was ex parte and unethical by noting that provision was made for the plaintiff to appear by telephone. Further, the judge

concluded that the plaintiff's lack of appearance made no difference (page 3, lines 17-19, EXHIBIT R,) which it must be presumed was correct inasmuch as the results of motions had been determined beforehand illegally through conspiracy. In his quote of Rule 11, FRCP, on page 4, EXHIBIT R, Redden fraudulently omitted the key sentence of the elements for which sanctions are permitted. That sentence is, "**The signature** of an attorney or party **constitutes a certificate by him that** he has read the pleading, motion, or other paper; **that** to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and **that** it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless

increase in the cost of litigation." (emphasis added). Accordingly, pursuant to conspiracy, **Redden, made no findings of violation of those essential elements of Rule 11 by the plaintiff.** The rule is highly punitive, is in conflict with the common law which provides trial by jury for alleged abuse of process or malicious prosecution, and all defendants herein and coconspirators knew at all times pertinent that Rule 11 requires strict interpretation. **Sanctions are connected to the signing of pleadings.** At all times pertinent herein, Redden and all defendants and all named coconspirators herein knew that the bogus document claimed to be a copy of a complaint filed in the federal court by Turner and Kobbervig before the federal court was not signed by the plaintiff. The signed complaint and amended complaint were filed in the state court. On page 5, lines 7-8,

EXHIBIT R, Redden knowing it was false, falsely and fraudulently stated that the "plaintiff has brought virtually identical suits containing the same allegations and regarding the same series of events numerous times in Colorado." **Any and all references to other lawsuits by Redden are without legal evidence. Redden had no certified records of other court proceedings before him.** Redden's statement was deceitful in that claims and defendants were different which is obvious to anyone reading the complaint or amended complaint. In presenting the conspiratorial remarks of Finesilver, Redden fraudulently omitted the facts that Finesilver found that the referred to complaint stated a cause of action and that Finesilver illegally dismissed the case because the plaintiff refused to post the $48,000.00 bond that Finesilver illegally ordered pursuant to conspiracy.

Redden fraudulently omitted the fact that Finesilver was a named defendant in the case of EXHIBIT A for that illegal dismissal and denial of plaintiff's Constitutionally guaranteed right to trial. At all times pertinent all defendants and coconspirators named including Redden knew that if there is claim of prior conclusive litigation that the proper procedure is to answer the complaint and plead the defense of res judicata or collateral estoppel, and that it is inappropriate to decide such issues by way of Rule 11. Redden and all defendants and named coconspirators knew at all times pertinent that determination of collateral estoppel or res judicata requires the complete record in evidence of proceedings of the case upon which the claim is based. None of the records of other cases were in evidence before Redden. In truth, Redden and other

conspirators including Hartford knew that collateral estoppel and res judicata require identical parties, facts, issues, and proofs in each case and proof that the issues were actually litigated. They knew that those defenses were not applicable to EXHIBIT A. They also knew that the plaintiff could rightfully attack any judgment which was the result of fraud and collusion. Redden, knowing it was false, falsely and fraudulently stated on page 6, lines 1-2, EXHIBIT R, "(the plaintiff) has once again brought suit against this defendant in a manner that does not comply with Fed. R. Civ. P. 8 (a)." That rule concerns "General Rules of Pleading" in the U.S. District Courts. First, in truth, Hartford Insurance Group was not a defendant in any case brought by the plaintiff in a federal court subject to Federal Rules of Civil Procedure. Second, and more significant, the complaint and

amended complaint of the case of EXHIBIT A were filed in the state court and not subject to federal rules of civil procedure. Pursuant to conspiracy, Redden knowing it was false, falsely and fraudulently stated "The complaint in the instant action is also virtually unintelligible and contains claims and allegations virtually identical to those that were dismissed and stricken in the previous actions." Redden falsely and fraudulently refers to the non-certified copy of the null and void complaint filed by Turner and Kobbervig, lawfully replaced by an amended complaint by the plaintiff. In truth, no defendant answered that they could not understand the allegations. To the contrary, all served defendants submitted motions that revealed that they understood the allegations. Defendants and coconspirators including Redden at all times pertinent knew that all that is

required as to intelligibility is that allegations can be admitted, denied, or answered that due to lack of information they are denied as pronounced in Ehrman v. U.S., 4 FRD 29 (NY, 1941). To meet the requirement of subjective intelligibility to conspirator judges is apparently an impossibility. Pursuant to conspiracy, Redden has punished the plaintiff for not writing a complaint in a manner which meets his approval, and without finding any culpable intent. In truth, this is another of the examples of fraudulent illegal misuse of rules of procedure, not subject to public scrutiny, to illegally deny the plaintiff right to trial and another example of use of courts to steal his property and money. Redden's fraudulent claim that the action of EXHIBIT A contains the same allegations as in prior lawsuits is false and Redden at all times pertinent knew it was false.

Redden fraudulently omitted the fact that the plaintiff was illegally denied right to trial or right to appeal lawsuits to which he apparently referred. Knowing it was false and fraudulent, Redden stated on page 6, lines 7-10, EXHIBIT R, "The allegations contained in this complaint are, as were they in the prior lawsuits, barred by applicable statutes of limitations as I noted in my Order of February 6, 1987." Redden and all other defendants including Hartford knew that a plaintiff is not required in his commencing a lawsuit to anticipate defenses a defendant might claim such as statutes of limitation. In truth, Finesilver and his coconspirators were being sued in EXHIBIT A for not following established Colorado law concerning statutes of limitation, and for dismissal of the referred to case pursuant to fraud and conspiracy. Redden's false and

fraudulent findings of bar by Oregon statutes of limitation are addressed above. Inasmuch as claims by virtue of 42 U.S.C. s.1983 are subject to 6 year statutes of limitation which by federal law and precedence commence only after the last act of a conspiracy, Redden, knowing it was false, falsely and fraudulently stated, "Plaintiff has again made a claim pursuant to 42 U.S.C. s.1983 without alleging facts indicating that the defendant acted under color of law." Redden fraudulently avoids the fact that defendant Hartford was clearly alleged to be a conspirator with state judges and with Finesilver who acted under color of state statutes. In addition to other false statements, Redden stated on page 6, lines 15-16, EXHIBIT R, "Moreover, plaintiff continues to include disparaging remarks about the defendants and their counsel." In truth, all disparaging

remarks made were justified and necessary for stating the claims upon which lawsuits by the plaintiff have been commenced. No one has denied the truth of disparaging statements made by the plaintiff or stated which disparaging statements to which they took offense. After finding without legal evidence that the plaintiff is an attorney, Judge Redden insultingly, falsely, fraudulently, and ambiguously stated, "I find that plaintiff's pursuit of this lawsuit was and is legally unreasonable and that this lawsuit is without factual foundation." The plaintiff has good reason to believe that in an honest public trial with fact finding by a jury as guaranteed in amendments to the U.S. Constitution that he will prevail. Repeated denial of right to trial, frauds, and alterations and destructions of evidence, including illegal, criminal alterations of

transcripts of hearings and the docket of filings in the U.S. District Court for the District of Oregon for which Judge Redden is responsible, are admissions that the plaintiff would have won the lawsuit of EXHIBIT A in public trial by jury. Pursuant to conspiracy, Redden knowing it was false, falsely and fraudulently concluded, "The fact that **these filings** force the defendant to once again appear and defend itself against meritless claims which are inarticulately framed supports the motion for sanctions." (emphasis added). Redden fraudulently does not identify the "filings" to which he refers or where they were filed by the plaintiff. The bill submitted for attorney fees fraudulently includes time prior to any filing of any documents in the federal court by the plaintiff, and the sanctions appear directed to the void complaint filed by the plaintiff only in the state

court. Furthermore, in truth, Redden knew that a legitimate subject matter of the lawsuit of EXHIBIT A was Hartford's corruption of the state and federal courts of Colorado.

58.

Copy of the illegal order to the plaintiff to pay Hartford's attorney fees and costs, an order obtained and issued through fraud and collusion, is appended hereto as **EXHIBIT S**. Copies of the Judgment in the amount of **$4,976.41** and the filing of it in Malheur County pursuant to conspiracy are appended as **EXHIBIT T**.

59.

The aforementioned conduct and each and all of the acts and accumulated and together, of each and all defendants, and by coconspirators for which defendants and each of them are responsible, committed jointly and separately, and committed and being committed pursuant to a continuing

conspiracy, were and are outrageous in the extreme and they were committed intentionally for the purpose of causing the plaintiff to suffer severe emotional distress and to thereby obstruct justice in the lawsuit of EXHIBIT A in which the plaintiff had an interest.

60.

The aforementioned conduct and accumulated acts and each of them committed by the defendants and each of them and pursuant to conspiracy,and by coconspirators of the defendants and each of them for which defendants and each of them are responsible and liable, proximately caused and continue to cause the plaintiff to suffer severe emotional distress, mental suffering, and other damage as alleged herein.

61.

The defendants and each of them conspired to commit crimes and committed crimes

aforementioned pursuant to conspiracy proscribed by the following provisions of Oregon Revised Statutes: ORS 162.065, 162.085, 162.235, and 166.720, and their coconspirators pursuant to the conspiracy subject of this complaint violated ORS 162.295, 162.305, and 162.415, for which the defendants are responsible and liable.

62.

The defendants in and by their aforementioned acts and pursuant to conspiracy engaged in a pattern of racketeering activity defined by ORS. 166.715. The defendants and each of them and pursuant to conspiracy engaged in more than two incidents of racketeering conduct that had the same or similar intents, results, accomplices, victims and methods of commission and are interrelated and not isolated incidents. The many violations of criminal statutes aforementioned were

each and all of them acts of racketeering conduct by defendants and each of them acting pursuant to conspiracy which were intended to and resulted in criminal obstructing, hindering, and impairing administration of law and judicial function that were intended to harm one victim, the plaintiff, who was proximately injured and damaged from such racketeering activity.

63.

Defendants and each of them knowingly received money in the form of salaries and fees for service for and derived from the foregoing racketeering activity.

64.

The foregoing racketeering activity of the defendants and in violation of ORS 16.720 (1) and of part (4) by conspiring to violate ORS 166.720(1) proximately caused the plaintiff damages as herein alleged, and plaintiff is entitled to three-fold

the actual damages, punitive damages, attorney fees in trial and appellate courts and costs of investigation and litigation.

65.

The aforementioned fraudulent acts that occurred in the federal court or were connected thereto are **extrinsic fraud** to the action of the case of EXHIBIT A because on the face of the record the federal court had no jurisdiction of the case and the jurisdiction of the case was at all times pertinent in the state court. Conspiracy between defendants herein and Judge Redden and fraudulent use of legal proceedings in the U.S. District Court for the District of Oregon is extrinsic fraud. Furthermore, the threat of illegal order by a coconspirator judge to the plaintiff to pay defendants' attorney fees was extrinsic fraud that illegally prevented the plaintiff from responding in the

federal court to the aforementioned fraudulent acts committed by the defendants herein. The plaintiff was deprived his right to appeal in state and federal courts because of the illegal, fraudulent, oppressive threat to award defendants attorney fees. Aforementioned acts of defendants, being extrinsic fraud, are properly subject of this lawsuit. **Issues of this case could not and cannot be determined by appeal and can only be determined by a public trial by jury.**

66.

Each and all of the aforementioned fraudulent acts of each and all defendants and named coconspirators have proximately caused the plaintiff loss of time and money **not subject to remedy by appeal** of the case of EXHIBIT A, **even if appeal had been available and which was not available**, including but not limited to his time and work as his own attorney,

time and cost to travel several times to and from Vale, Oregon, from Ontario, Oregon, a one-way distance of 16 miles to obtain copies of documents filed in the Circuit Court of the State of Oregon for the County of Malheur and for use of its limited law library, time and cost to travel several times to and from Boise, Idaho, from Ontario, Oregon, a one-way distance of 55 miles, to a law library for research, loss of time expended on legal research and writing, costs of copies of statutes, case reports, and other documents, and loss of time and money expended for trips to and from Portland, Oregon, a one-way distance of 375 miles from Ontario, Oregon, which required two nights' lodging and three days' food for each trip, as well as automobile expenses. The damage proximately caused by defendants includes but is not limited to denial of the plaintiff the benefit of ORS

12.020 (2) which provides that defendants served within 60 days of filing of the complaint will be considered to have had action commenced against them as of the date of the filing of the complaint. As a proximate result of the aforementioned acts by defendants and each of them, statutes of limitation have expired for plaintiff's right to initiate a separate independent action against Hartford for breach of its insurance contract with the plaintiff. The foregoing acts by the defendants have proximately caused the plaintiff loss of time, earnings, liberty, enjoyment of the use of moneys in compensation for claims of EXHIBIT A, and enjoyment in living. The extremely outrageous acts of defendants herein have proximately caused the plaintiff severe emotional distress and mental suffering. None of those damages could have been or could be compensated for by appeal of the

case of EXHIBIT A even if appeal was available and which was not and is not available.

67.

As a proximate result of the foregoing acts committed by the defendants and each of them and by their coconspirators pursuant to conspiracy, the plaintiff was illegally and wrongfully denied his right to trial of the case subject of EXHIBIT A and was injured and damaged as herein alleged.

68.

As a proximate result of the foregoing acts committed pursuant to conspiracy, the defendants herein are liable for all acts and damages proximately caused by acts cited in EXHIBIT A.

69.

The foregoing acts and each of them committed pursuant to conspiracy by defendants and each of them and by their

coconspirators for which defendants and each of them are responsible and liable proximately caused the plaintiff loss of time and money in an amount exceeding $600,000,000.00 and other special damages.

70.

The foregoing acts and each of them committed by defendants and each of them and by their coconspirators for which defendants and each of them are responsible and liable proximately caused the plaintiff severe emotional distress and mental suffering in the amount of $20,000,000.00.

71.

The aforementioned acts and each of them committed by the defendants and each of them were committed maliciously, intentionally, willfully and wantonly, and in reckless disregard of the rights and feelings of the plaintiff, and the plaintiff is entitled to exemplary and

punitive damages.

WHEREFORE, plaintiff prays for remedy and relief from the defendants and judgment jointly and severally as follows:

1. Special damages in the amount of $600,000,000.00,

2. General damages in amount of $20,000,000.00,

3. Treble the aforementioned $620,000,000.00 actual damages,

4. Costs of suit,

5. Attorneys' fees,

6. Interest,

7. **AND EXEMPLARY DAMAGES** from each of the defendants as follows:

8. One billion dollars ($1,000,000,000.00) from Hartford Insurance Group,

9. $5,000,000.00 from Yturri, Rose, Burnham, Ebert and Bentz,

10. $5,000,000.00 from Anthony Yturri,

11. $5,000,000.00 from Carl Burnham, Jr.,

12. $5,000,000.00 from Teresa J. Hutchens,

13. $5,000,000.00 from Cliff S. Bentz

14. $5,000,000.00 each from each of the insurance company defendants other than Hartford.

15. $2,000,000.00 each from each of the other defendants.

16. And other appropriate relief.

PLAINTIFF DEMANDS A JURY TRIAL OF ALL ISSUES HEREIN

By (signed)

Donald E. Tyler, M.D.,
PLAINTIFF, pro se
1092 S.W. 2nd Ave.
Ontario, OR 97914
telephone (503)-889-5109

AFFIDAVIT

I, Donald E. Tyler, M.D., the plaintiff in this action, being duly sworn do hereby

declare under oath that to my knowledge and belief all allegations in the foregoing complaint are true.

By (signed)

Donald E. Tyler, M.D. AFFIANT

STATE OF OREGON)

County of Malheur) ss.

The foregoing was sworn to and subscribed to before me by Donald E. Tyler, M.D., in Ontario, Malheur County, Oregon, this 28 day of April, 1987.

(signed) NOTARY PUBLIC

My commission expires: (dated) (seal)

Exhibits of the complaint and Constitutional provisions, statutes, and rules follow in

PART II OF APPENDIX A, a separate volume.

SUBMITTED BY: Donald E. Tyler, M.D.

Petitioner, pro se

1092 SW 2nd Ave., Ontario, OR 97914